Public Utilities
FORTNIGHTLY

VOL. VI; No. 9 October 30, 1930

The Commercial Value of Art to the Public Utility

How some of our great corporations are learning that beauty has economic value, and that public good will is earned as surely by consideration of aesthetic needs as by material service.

BY EARNEST ELMO CALKINS

LAST May a quarter of a million tulips, all raised on the grounds of various railway stations along the line, were distributed to passengers on the Burlington route.

At a convention of the Independent Telephone Association in Chicago it was seriously suggested that telephone poles be painted to blend with the surrounding landscape.

The new gas tank of the People's Gas Light & Coke Company, also of Chicago, is a 28-sided polygon, instead of a cylindrical drum, finished with cornices supporting light towers, and painted sage green with alternate bands of orange and black at the top, with the double purpose of improving its appearance and affording a landmark for airplanes.

These bits of news all culled from the papers within a month or two suggest an inquiry as to what public service corporations are doing for the beauty of the country. Because of the vast size of their outside plants and the way these penetrate every part of the inhabited country with poles, wires, tanks, tracks, mains, together with trains, shops, power houses, factories, and stations, they loom large in every landscape and

have vast opportunities for good or evil. How do they accept their responsibilities? There are signs of an awakened consciousness which is at least no more belated than the tardy appreciation of beauty by the public itself.

ANYONE who knows aught of the spirit which animates the Bell system will not be surprised to learn that this corporation at least has given the subject much constructive thought. Poles and wires are the most pervasive of all the works of public utilities. They seldom blend with any background and they can easily be aggravated eyesores. At the same time we cannot dispense with the services these wires bring us. Our latter-day civilization is built around them. So it is gratifying to know that 65 per cent of the telephone wires are now underground, and that it is entirely possible they may disappear altogether. It is certainly the attainable ambition of the telephone company ultimately to bury them all. Meanwhile much has been done in routing aerial plants through alleys and behind dwellings to avoid cluttering up attractive thoroughfares. Also the lead-covered cable materially reduces the spread of wires overhead and gives a simpler and less conspicuous appearance to the plant.

All this benefit is not as apparent as it would be were it not for the light and power wires, which require more room. They are higher and wider, and their poles bear a strange fruit known as transformers. The light and power companies are not gathered into one national holding company as the communication companies are so that a policy of improving the physical appearance of outside plants cannot be worked out by the parent company and imposed on the subsidiaries. But it has become the practice for the telephone companies to share poles with the light and power folks, thus reducing the number of poles on streets or roads, and perhaps association with the telephone people may inoculate the light and power people with a spirit of cultivating public good will by coöperating in attempts to beautify the highways. Also some of the light and power companies have already shown an accommodating spirit on their own initiative, and this spirit is bound to grow as executives perceive the dollars and cents value of both good will and beauty.

ONE encouraging phase of the telephone policy is its attitude toward trees. Trees are the natural enemies of wires carrying current. On the other hand, they are the greatest possible aids to beauty in streets and roads. A tree is a valuable possession not easily replaced. A building may be rebuilt in less than a year, but a tree requires at least a generation. As the poet said, only God can make one. Trees must be trimmed or current will leak and service be impaired. The law has established a vested interest on the part of property owners in trees in front of their places. Permission is supposed to be obtained before trimming, but some linemen sneak off a few branches and try to get away with it. This unintelligent trimming often spoils the trees. The Bell system consults leading tree surgeons, such as Davey, Bartlett, Asplund, to achieve both

ends, clearance for wires and preservation of the natural habit of the tree. Bartlett's advertisement, in *Telephony,* illustrates this and shows that public utilities are looked upon as customers for such service:

"Bartlett tree men handle trees from a double viewpoint. We get the public utility's desired line clearance while maintaining the public's idea of symmetry and beauty of the trees we trim. Our past performances in justifying these two points of view, explain the continued renewal of old contracts and our increasing business with public utility corporations."

THE Bell system went to heroic lengths two years ago to avoid disturbing the beauty of High street in the village of Worthington, a suburb of Columbus, Ohio. Says the Ohio *State Journal:*

"When engineers laid out the line for the conduit, alongside the pavement, they found hundreds of trees on that line. The greater number of trees were large, some historic veterans, many a hundred years old. Obviously property owners wonder what was to take place when the engineers drove the stakes along the line between these great trees.

"Not a tree has been sacrificed, apparently not a tree has been damaged, although the trench has been carried to the north for miles, and for the greater part of the distance the conduits are in place. Men from the telephone company called on the property owners, explained their plan, promised to safeguard the trees. It was an appeal for fair play and reason, not a hard and fast legal proposition.

"The trench is about 8 feet deep; it is run under the trees, but the roots are not cut, the dirt being taken out carefully and replaced when the conduits have been placed. Engineers and foresters know that most tree roots spread and the space directly beneath the towering tree is vacant if one will dig down 8 feet. The tunnels beneath the trees have been run between the roots and without damage to the trees. Where the work has been completed there is little to show what had been done."

The cost of putting wires underground is nearly three times that of stringing them along the road, but there are economic advantages as well as æsthetic, and as the service extends the tendency will be to seek the greater protection that subterranean conduits give to the outside plant. Neither painting the poles nor planting them with vines is a practical solution. It is believed that a weathered surface harmonizes better with the landscape in the country, and the necessity of climbing the poles for repairs and adjustment would soon disfigure a painted surface. And vines reaching the wires cause leakage of current. The ends desired are attained in other ways. As far as possible poles are kept off scenic highways, and in built-up districts are carried behind buildings instead of in front of them.

ITS policy in regard to its buildings which have now become numerous is another instance of the Bell system's modern and enlightened attitude toward the more or less intangible values. Mr. Arthur Page, vice president in charge of public relations, says:

"The appearance of our buildings and equipment is a matter of continuing administrative and engineering care in all our staff and field departments. We try to conduct the telephone business so as to interfere with the beauty of the United States as little as possible in those cases where any interference is necessary, and to increase it where there is an opportunity to do so. The entire force is constantly being impressed with the importance of fitting the appearance of telephone equipment into the community's surroundings.

"The numerous telephone buildings throughout the country are built always in relation to their surroundings. Each operating company maintains an architect of its own and a consulting architect is employed by

the American Company for additional consultation. Where communities have a well-defined local architectural tradition, Bell system buildings are designed accordingly. Good examples are the Spanish style of the telephone buildings at Ventura, California, Phoenix, Arizona, and elsewhere, and the Colonial brick buildings in Maryland and other eastern states. At Dallas, Texas, the new telephone building is an application of Aztec architecture to modern business requirements. In San Francisco's Chinatown is a telephone building in Chinese style."

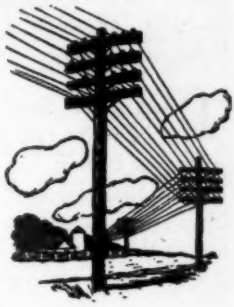
And he might have mentioned the charming Cape Cod cottage at Scituate, Massachusetts.

The activities by which the Bell system is intelligently striving to make its bulky and widely distributed physical plant amenable to the eye are really too numerous to be commented on in detail, but credit should be given to steady improvement in the design of multiple telephone booths and likewise to the availability of the so-called French design of telephone instrument in colors to harmonize with interiors of homes and offices. The company further commissioned and paid for designs by leading artists looking toward improving the shape of this instrument. It can be safely assumed that the telephone company is in the lead among public utilities in attacking this problem. The physical obstacles are enormous, but some of our great corporations have learned that beauty has economic value, and public good will is earned as surely by consideration of æsthetic needs as by perfect material service.

IT may well be asked what is a public utility. Strangely enough so comprehensive and recent a work as the Oxford Dictionary doesn't define the term. It is one of those expressions that has grown up as a convenient handle for describing certain types of enterprises privileged to use the public domain and which amount in effect to a sort of monopoly. They seem to occupy a middle ground between a government institution and a private one. They are run by private owners but have some of the functions of public enterprises. There is, of course, no real distinction between the post office, the telephone, and the telegraph, and in many European countries all communications are government departments. In this country it just happened that the post office remains with the government, while the telephone was developed as a private business (if anything can be private that has half a million owners) which has been a good thing as no government department has ever shown such initiative and energy as the telephone company. It is curious that railroads are not usually classed with public utilities since they have all the earmarks. The reason probably is that they came so long before the modern development of electricity, gas, water, and trolleys, for which the name "public utility" was invented, that public usage did not make it retroactive. The radio may yet be classified as a public utility; at least it is subject to a certain amount of government control. Indeed, it is difficult for the definition to keep up with our rapidly expanding industrial civilization. But surely if a trolley is a public utility, a railroad is. The essential difference seems to be that the railroad owns its right of

The Obtrusive Telegraph Pole Is Doomed—Because It Is Both Inartistic and Uneconomic

"TELEGRAPH poles seldom blend with any background and they can easily be aggravated eyesores. . . . The cost of putting wires underground is nearly three times that of stringing them along the road, but there are economic advantages as well as æsthetic. . . . Neither painting the poles nor planting them with vines is a practical solution."



way. But some interurban trolley lines do also. And then there are the busses which are becoming numerous enough to bulk large in the scene.

WHOEVER has traveled much in this country remembers the delight of pulling into a railway station, usually in one of the smaller towns, and having his eyes refreshed by a bit of green lawn, shrubs, climbing roses, and other flowers as a setting for what is often an attractive and reasonable railroad building. This little gesture is sometimes the spontaneous hobby of a station master who loves beauty and puts in his spare time brightening up the spot where he is, but there are railroads that have a definite policy of good design applied to stations and landscaping the grounds. This movement is not large enough yet to have made a definite impression upon the whole country, but it does mean that there are examples which suggest what might be when such a policy becomes as definite a part of railroad programs as, for example, the replacing rolling stock.

An inquiry sent to leading railroads elicited the consoling information that they were all for beautifying their property even though some showed vagueness as to just what the term meant. Examples cited ranged all the way from the pattern of the blue china used in the dining cars to the politeness of the conductors. Several stressed the attractiveness of their advertising matter, which, of course, is not pertinent, however commendable. The probability is that few did justice to what they had really done along this line. For instance, the New York Central did not mention one of its most intelligent contributions to public beauty. The road had planned a new bridge in the district being improved for the Bronx Parkway. It was to be the typical railroad bridge, two I-beams resting on square hunks of concrete, inexpensive, efficient, and ugly. At the request of the park commission the road made a new design to harmonize with the others in the Parkway, and

thus a discordant note was avoided and a real contribution made. The enhancement of real estate values bordering on this Parkway is an outstanding example of the economic value of beauty.

THERE are three large fields in which the railroad may express whatever taste it has, its right of way, its stations, and its trains. There have been numerous instances of planting beside the roadbed which would sound impressive if catalogued, but which as yet are an infinitely small part of the total railroad trackage of the country. The improvement in railway stations is more apparent and some noteworthy examples of modern architecture and good landscaping have been produced. Nevertheless, the roads have been more successful in their small town stations than in their metropolitan terminals. Little originality or imagination has been shown in some of the most ornate, and frequently they represent a railroad man's idea of a station. We have not yet in the railroad architecture anything approaching the appropriateness and vision of some of the newer office buildings and retail shops. Two notable buildings are the Grand Central Terminal and the Pennsylvania station in New York city. Each is a beautiful building, copying a classic model, but neither is inevitably and unmistakably a railroad station. A building built around the needs of a railroad has not yet been achieved. They have taken a renaissance palace or a Greek temple and adapted it. So these buildings lack that higher beauty which comes from perfect adaptation to their purpose. The railroad station is one of the gateways to the city. But the approaches in most cases are through depressing slums. For that matter, so are too many of the highway approaches. The gates of a medieval city were often its most beautiful aspect.

THE decoration of trains and engines is an interesting development and may lead to something satisfying. There are a number of color trains, refreshing contrasts to the older type of a dirty green, such as "The Senator" of the New Haven road and "The Blue Comet" of the New Jersey Central. The Alton, the Wabash, the Chicago-Great Western, and the Milwaukee all have distinctive color for their passenger trains. There was once a very distinguished white train, "The Ghost," which stole through New England during the night, but it yielded to the economic pressure a few years ago. It cost too much to keep clean. Some roads, the Boston and Maine, the Baltimore and Ohio, and the Southern among them, are experimenting with color and gold on locomotives. Of freight cars, by far the greatest bulk of a railroad's rolling stock, the less said the better.

The interiors of trains, or at least of special coaches, have had some consideration, but here too the hand of the designer is paralyzed by the railroad ideal, and we do not often see the problem approached with an open mind. The worst interiors are those of the venerable Pullman Company, the most unprogressive and Bourbon of them all, which learns nothing and forgets nothing. It has been said that the only voluntary contribution the

Pullman Company has made since Abraham Lincoln freed the porters has been to raise the rates 50 per cent and cut a slot in the washroom to dispose of razor blades. The standard Pullman car is as uncomfortable as it is unbeautiful. Even though one pays for the highest accommodation obtainable he cannot escape the tortuous seats, the short berths, the lack of intelligent ventilation, the dreary upholstery, and the paucity of convenient places for disposing belongings. One would think obvious improvements would occur offhand to any Pullman designer who traveled. He should take a look at the newest Atlantic liners and see what can be done to make a small space convenient and attractive. Whatever improvement has been made in Pullman cars has been at the urgent request of the railroads which are nearer to the traveling public and sense as good salesmen do the need of changes in style to keep up with growing public taste. Suppose the Pullman Company were not the monopoly it is, but had the same urge to sell its product as General Motors, and let a good designer have his head, we might be able to travel as comfortably in Pullmans as we now do in Cadillacs.

A development not without interest is hanging paintings in trains. The New Haven road has commissioned Patterson, Benson, Grant, and others to paint pictures of famous American ships, Lightning, Flying Cloud, etc., to be hung in the coaches of its new fast train between Boston and New York, which has been christened "The Yankee Clipper." Here is a new possibility. English cars are decorated with posters in full color of seaside and other resorts served by the trains, which brighten up the compartments greatly, as the posters are exceedingly well done.

THE fact is that the railroads made their growth in that dark era following the Civil War when taste was at its lowest ebb in the history of the world since Neanderthal man. It would have been extraordinary if any railroad man thought of beauty in connection with his plant and structure. No one thought of beauty. We were all concerned with economic progress and when anyone attempted to be aesthetic the result

¶ "PUBLIC *utilities are all machines. They operate on a vast scale and their visible structure is very much in evidence. It is time that our new found sensitiveness to beauty be applied and we begin to work out the most satisfactory physical appearance for these various utilities so that we can enjoy the comforts and conveniences they bring us without mental reservation. . . . But before we can attain any such ideal state there must be an enlightened public opinion behind it so that the public utility companies will realize emphatically that they are creating good will by what they attempt to do.*"

was worse than uninspired utility. It was the era of mansard roofs, cupolas, iron deer on the lawn. Railroads spawned depots all over the country, painted the same depressing red as freight cars and looking much like them. So now the railroads are possessed of enormous physical properties in the way of stations, freight depots, round houses, shops, tracks, bridges, and rolling stock, and the only hope for the future is in replacements. Whatever ambitions the companies have in the way of making their plants more acceptable to the eye, and they do have ambitions, are handicapped by financial limitations aggravated by the development of busses and trucks, which are themselves becoming public utilities of importance and are contributing their quota toward vulgarizing the landscape.

The attitude of the more enlightened railroad executives is no doubt expressed in this reply from the Illinois Central:

> "The railroads' contribution to art in industry is not confined to the performance and presentation of passenger service. A railroad such as the Illinois Central system passes through hundreds of towns and cities along its lines, and it is a citizen—often the leading citizen—of every one of those communities, that carries certain definite responsibilities. Railway buildings are for utility mainly, but they must not offend civic pride. Every up-to-date railroad constructs and maintains its stations and auxiliary facilities to harmonize in architecture and appearance with other structures of the community. In fact, it is no exaggeration to say that in many places the railway station will be found to compare favorably in attractiveness with any business structure in the community. The large metropolitan terminals that have been erected in recent years illustrate the diligence of the railroads in combining beauty and utility."

IN the field of electricity we find conditions varied. Being one of the newest of our public utilities it has not so long an established tradition as the railroads and consequently not so many sins of omission and commission behind it. On the other hand, being in the hands of many companies with divers interests, problems, and ideals, we find none of that consistent unified policy which characterizes the telephone company. Some of the light and power companies are as enlightened as the telephone companies, and some are as backward as the railroads were when pushing their domain across the country to the Western sea.

One of the first points of departure is the development of hydroelectric power. Immediately a dilemma confronts us. We want the cheap power that "white coal" makes, but we do not want to see our picturesque falls and watercourses disfigured. The discussion that has raged around the use of Niagara for power is a case in point. Of course, it is not always necessary to choose between two evils. We can have power and retain beauty if the problem is approached from the proper angle. Unfortunately the courts do not yet find any authority for coming to the defense of public beauty. An awakened public opinion must give them new powers. There has been an informing discussion of this phase of the matter in the PUBLIC UTILITIES FORTNIGHTLY recently. In this article one of the members of the Oregon State Highway Commission is quoted as saying that "scenic beauty, while it is pleasing to the eye, is neither a public necessity nor convenience; that scenic beauty is not necessary to the conservation of public health or safety, and that he was un-

Power Line Carriers, When They Are Made Beautiful, Will Increase Good Will toward the Utility

"PROBABLY no latter-day development of public utility is more obvious, more pervasive, and, it must be said, uglier than the high power carrier structure. Yet it should not be difficult to make it beautiful. Did any power company ever think of anything so revolutionary as submitting these high power carriers to an artist?"

able to find in the Public Utility Act any intent of the legislature that the commission should have power to regulate public utilities in the interest of conservation of scenic beauty."

LAW, as usual, lags behind public opinion. Certainly we now know that scenic beauty is a public necessity, and we are finding out that beauty in all our industrial aspects has a value that can be measured by the sordid standards of the balance sheet. Public opinion must be organized behind legislatures and commissions to secure laws covering our new appreciation of one of our greatest assets, looking toward conserving and enhancing it.

In the power house the architect has a great opportunity. This has been called the Machine Age, but it is strictly the Power Age. Man has had machines since the earliest dawn of civilization, but it was not until the advent of power that the machines became significant. First, steam, then electricity, and finally, the internal combustion engine. They made machines ubiquitous. Surely we shall find a way to make the power house a symbol of its mighty place in our civilization. The Northwest Service Station of the Commonwealth Edison Company is a suggestion at least of what might be done when corporations give architects opportunity to design a building around the idea of consummate energy. Also the Michigan City power house. Was there anything more depressing than the old-time steam power house hidden in a dirty and obscure corner of the factory yard? We do not need camouflage. We want utilitarian buildings to stand forth in all their glory of appropriate and vital design. They can be just as distinguished in their way as the Lincoln Memorial.

THE flexibility of electricity, the ease with which it can be transported from place to place, indicates that it will be our chief source of power in the near future. But at present high power wires are carried on huge awkward steel straddlebugs in a wide swath through the forests.

These stark structures rather dominate the landscape. You see them sprouting over the hills in every direction, and as they increase in number they will become the most conspicuous objects in the landscape because they are driven like Roman roads straight to their destinations, crossing the valleys, topping the mountains, towering above the trees. Probably no latter-day development of public utility is more obvious, more pervasive, and, it must be said, uglier. Yet it should not be difficult to make it beautiful. I wonder did any power company ever think of anything so revolutionary as submitting these high power carriers to an artist? It is, one would think, a matter of design and color. The structures we have were designed by engineers, but the time will come when no engineer will be considered fitted for his profession who has not imbibed some of the principles of design and proportion. The highest utility is efficiency combined with appropriateness, the ideal form for that particular service.

THERE is one manifestation of electric current that is not only intrinsically beautiful, but which lends itself with ease to transcendentally beautiful effects, and that is light. Light, especially electric light, is an art in itself. It is so flexible, the basic current can be led to it so easily and so inconspicuously, that already it has altered the appearance of much of the built-up and civilized world. It is not alone in its fixtures that it has added greatly to the sightliness of landscape and architecture, as witness a row of street lights like glowing pearls rounding in diminishing perspective down a boulevard, or reflected in a compelling curve around a park lake. But light is used to bring out unsuspected beauty in architecture, as the illumination of the topless towers of our large cities reveals. In show windows, on the stage, at banquets and other functions, in gardens, clever uses of it in white and colors, concealed but radiating a mysterious glow, have given the artist a new medium. The sheer artistry of lighting devices is one of the most encouraging aspects of our modern civilization. It would be impossible to chronicle here all their fascinating forms, from the perfectly-shaded conventional reading light to modernistic combinations of planes of opal glass which surprise new effects. To those who remember the uncompromising gas chandelier with its stiff arms and obdurate inflexibility it is like being born into a new world.

WHAT the power wire carrier is to the country the gas tank is to the city. This is a real problem. The gas tank has been a synonym for utilitarian ugliness since the first one was erected. Recently one gas company at least has realized this and experiments have been made in camouflaging them by methods developed during the war to make vessels more or less invisible and with considerable success. Gas is profitable today only in two localities—in cities where it was thoroughly established before the advent of electricity, and in territories where natural gas is plentiful and cheap. But there are many towns and cities in this country that have no gas and are getting along very well with electricity, and while gas pipes go

underground, so in the cities does electricity, and it doesn't require great visible reservoirs. As gas disappears and electricity takes its place and is produced on an economical basis by utilizing inexpensive power, it will be cheap enough for all the purposes of cooking and heating as well as for lighting and power, and then we will have to consider only the minute wire over which it comes and the pole that carries it. At its source are the power houses which are susceptible of beautiful treatment. At the other end is its utilization. The possibilities are thrilling. Light is one of the most beautiful arts we have and is still in its infancy.

THE electric light is a great improvement over the old street-corner gas lamp, it is so much more flexible and admits of so many beautiful forms. Interior lighting and even some forms of outdoor illumination have advanced quite far and suggest what might be done when the whole problem of municipal lighting is taken up in an intelligent way to combine maximum beauty with maximum utility. Here is a field of increasing potentiality for the most inspired creative artist, for surely a medium which yields so much beauty in return for so little effort and study has undreamed of possibilities.

IN spite of the fact that some of the rapid transit companies are making desperate efforts to offset the ugliness of their apparatus and equipment, they have perhaps less to show than any. Also their state of mind is not as a whole favorable. A paragraph from the *Electric Railway Journal News* expresses an attitude with which street railway men are no doubt sympathetic:

> "Electric railway officials in Washington, D. C., are asking 'what price beauty?' in connection with the government's development program near the Capitol. The Capitol grounds are to be extended to the Union Station plaza on the north and the mall parkway on the south. Buildings are to be razed and street car tracks are to be submerged. The government will construct the subways, but the railways apparently will be required to pay more than $500,000 to move their tracks.
>
> "Officials of both companies—the Washington Railway & Electric and the Capital Traction—say it is unfair to force them to contribute to beautification, particularly since their cars will be taken off the streets where they can attract tourists who, to reach street cars, will be required to use a subterranean station in the cellar of the Senate Office Building."

City streets do present an obdurate problem, and the trolley, even when underground, seems to have few alleviating features. Burying the rapid transit lines seems to be the ultimate solution, as it is for telephone and light wires. Among the insistent problems of congestion mere beauty must come in for scant consideration. And electric railroads are but one of

¶ "THERE *are three fields in which the railroad may express whatever taste it has; its right of way, its stations, and its trains. . . . Whoever has traveled much in this country remembers the delight of pulling into a railway station and having his eyes refreshed by a bit of green lawn, shrubs, climbing roses, and other flowers as a setting.*"

many heterogeneous and discordant elements, among which should be considered the busses, taxicabs, and privately owned motor cars. Individual attractiveness of the cars themselves has been attempted with even less apparent result than with railroad cars.

It is in their interurban lines that rapid transit lines have their best opportunity. Here the problem is similar to that of steam railroads. They have often their own right of way and stations. And they came late enough to feel something of the awakened public interest in beauty and appreciate the value of cultivating good will by not being too violently and obtrusively ugly. Some of the stations are simple shelters, but these are sometimes artistically conceived.

MUCH is being written now about the Machine Age and what it is doing to us and our civilization and what we must do to save ourselves. Public utilities are all machines. They supply commodities necessary to us. They operate on a vast scale and their visible structure is very much in evidence. It is time that our new found sensitiveness to beauty be applied and we begin to work out the most satisfactory physical appearance for these various utilities, so that we can enjoy the comforts and conveniences they bring us without mental reservation. There isn't a thing made by man which is not susceptible to a treatment that will enable it to contribute its share toward the beauty of the physical world if the right mind is brought to bear upon it. But before we can attain any such ideal state there must be an enlightened public opinion behind it so that the public utility companies will realize emphatically that they are creating good will by what they attempt to do. There is no such public opinion at present. There are merely sporadic groups of beauty lovers concerned with the ruthless destruction of scenery, the prevalence of billboards, the elimination of forests, the pollution of streams, who write letters to newspapers, bother Congressmen and legislators, and form societies and distribute propaganda. One need but look at Central Park on any Monday morning to realize how little the public cares for what public beauty is now supplied it. There is no country in Europe where the parks are so treated. There is no country in Europe where people pull up flowers and shrubs by the root and bear them away. For some reason the average European citizen has more affection for and possibly appreciation of the natural beauty of his country than are found in this great country of ours, and so criticism of public utility companies may be conditioned by the knowledge that at present only a minority of the public will censure them. But there is such a minority, already strong and constantly growing, which in time will set a new standard of taste for the Nation. And wise utility corporations will anticipate this public opinion.

SHOULD *the physical structures of public utilities come under the regulatory supervision of some governmental agency? This question will be discussed by* CHARLES MOORE, *the distinguished chairman of the National Fine Arts Commission, in a coming issue of this magazine.*

When Ratepayers Repudiate Prudent Investment

IN the city of Leadville, Colorado, the water company sought to increase its rates. At the time Leadville had 3,750 people, exactly half of the number shown by the 1910 census.

Mining towns have their ups and downs, but that is not the point.

Notice what the city's attorney, opposing the demand for an increase, said:

> "Due to the fact that a public utility, when it makes an investment is not insured by the government against failure, that it has to use its own good judgment, and take its chances, just like other people who came here, and who built business blocks along Harrison avenue. Many of those buildings have been sold to the county for taxes, or are abandoned wrecks, and while the Leadville Water Company has not reached that stage, in common with other private investors, they have got to take their chances—that if the city grew, as in early days looked likely that it might have reached a population of fifty thousand, they would have had a tremendously valuable investment—but to try to throw on to the dwindling population the whole weight to produce a revenue on what they spent during the last fifty years is unreasonable."

This argument bears a strong family likeness to that of William Jennings Bryan in the famous case of Smyth *v.* Ames, which has had a "Dred Scott" label pinned upon it by an ardent advocate of the prudent investment theory.

In Mr. Bryan's opinion—he was on the public side—railroads should be treated like any other business concern. When values are high, they should profit thereby; but when values are low, they should be made to take their medicine like other business men, unless the railroads are to be regarded as endowed with special privileges.

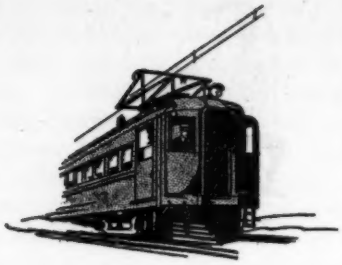
It is quite evident that the city of Leadville does not take much stock in the assertion that a reasonable return on the investment in public utility properties is guaranteed; nor does it regard the value theory of rate making as sinful.

On the other hand, the stockholders in the water company, investing on the assurance that they would have to take their chances on the value theory, have no ground for complaint over a reduced earning base produced by falling values.

The case of Leadville indicates that ratepayers might suffer from the establishment of a fixed rate base. In fact there would be more danger to the ratepayers than to the utilities from the adoption of such a policy.

Economic laws cannot be thwarted. If values in Leadville fall so low, by reason of diminishing population, that the company cannot survive, the citizens may be forced to own their own utility whatever the cost, or to resort to the old oaken bucket method of obtaining their water.

Henry C. Spurr



What Is Happening to the Street Railways?

The beginning of a new era in the history of rapid transit in American cities

By ROY L. GARIS
PROFESSOR OF ECONOMICS, VANDERBILT UNIVERSITY

A QUICK glance back over the history of mass transportation discloses the fact that the street railway is a comparatively young industry when stood up beside some other public utilities. The history further reveals that the evolution of common carriage for metropolitan service has been steady and that it is still going on.

The present alarming symptoms of the modern street car business due to automobile competition are no more pronounced than those which attacked the old horse car business when the trolleys first came into use. Nor yet more vital than those which came still earlier to the romantic stagecoaches and horse-drawn omnibuses when rail service came into general use.

To show that the present quandary of the street car business bears a close resemblance to the problems of their operating forebears, here are a few general facts:

THE horse-drawn omnibus and stagecoach gave way to rail service because of the demand for smoother riding together with the desire to handle larger loads. The first passenger street car in this country, the "John Mason," was drawn by horses over strap rails laid on stone ties on Fourth avenue in New York city in 1831. By 1870 horse cars of this type were operating in practically all of our larger cities. The peak of the horse car came at 1890. There were then 769 such systems with 5,662 miles of track in operation.

There were many faults to be found with the horse car. It was slow and hard on the animals. Cable cars were introduced in August, 1873, but they did not appear to be a very satisfactory substitute; only 658 miles

were operated during the peak of their usefulness.

Next came the birth of the electric railway which is usually regarded as in 1888, although there was one electric system operating in Saratoga Springs, New York, in 1883, and another in Cleveland in 1884.

The accompanying table, at the bottom of this page, shows the transition in street railway trackage, classified according to power used.

The electric street railway is thus not yet fifty years old. It is young compared to many other industries. "But already its movements grow slow and jerky, it complains of pains in the head, and in many cities men snicker when they speak of it as rapid," for "the business stands, still in its youth, on the brink of a troublous and uncertain future. Today its leaders battle with tidal waves of automobile traffic. . . . The ghost of the horse-car horse whinnies in glee over this nightmare age in rapid transit history."

STATEMENTS such as "surface trolley lines should give way to busses"; "street cars are obsolete or approaching obsolescence"; "most of the street railway tracks will be torn up in the next twenty years," indicate the existence of a problem that is both serious and delicate to the street railway companies.

Not only are problems of operation becoming more acute, but relationship of the street railway with the public is a more difficult one, for in the opinion of the customer the company "is at once held responsible for every discomfort and delay that he encounters."

The most puzzling operating problems of the street railway arise out of two characteristics of urban passenger business.

The first of these is that city traffic is extremely dense.

The second is that this traffic is unbalanced.

DUE to the fact that it operates within limitations of space, obstacles exist which largely prevent the street railway from increasing its capacity. Thus, it is rarely possible for a company to lay more than two tracks. Furthermore, if such facilities were provided they would remain unused during most of the twenty-four hours. The route speed of cars cannot be increased very greatly due to the existence of other traffic and to the necessity for frequent stops in congested districts.

Efforts are being made, however, to increase the acceleration of traffic movements. This is being accomplished by running street railway cars at uniform speeds; cars are being built and methods devised to minimize delay in loading and unloading; and attempts are being made to increase journey speeds without increasing the maximum speed of street cars in mo-

Miles of Track operated by:	*1890*	*1902*	*1917*	*1922*
Electricity	1,262	21,902	44,677	43,789
Animals	5,662	259	11	4
Cable	488	241	45	46
Steam	711	169	41	1

tion, by reducing the number of stops. Much can be done by city governments to assist the street car company in speeding up its equipment by better regulation of traffic, especially at intersections, and by stringent automobile parking rules. While substantial progress has been made in the technique of handling city traffic, one authority states the problem thus:

> "It is becoming increasingly clear, however, that while the street railway, including the elevated and subway lines, is the most effective machine for moving large masses of people in congested areas which has yet been devised, it yet cannot keep pace with the demands of urban population unless some community action is taken to limit the height of buildings, or in some other way to control concentration of business in the downtown districts in large cities. . . . No street railway plant can expand as rapidly as the demands upon it if these demands are uncontrolled."

ANOTHER problem is that of economy in utilization of plant. Especially is the street railway anxious to seek business for the hours of light traffic since the fixed charges attributable to this business are negligible. Any new business that does not come during the peak-load periods is, therefore, welcome, for thereby it is enabled to recoup itself for some of the losses in revenue that have come with the advent of the automobile.

Although a street car is essentially more economical to run than an automobile and occupies less space in the street per passenger handled, yet it is true that the automobile has taken a large part of the pleasure traffic which the street cars formerly enjoyed. It seems to be generally recognized, however, that the effort of the street railway to encourage off-peak business is not due as much to the advent of the automobile as it is to the essential irregularity of the business with which it is concerned.

THIS is but a brief restatement of the present-day problems of the street car operators, and yet it is difficult for the public to understand why the street railway company in the average city can not make money. It has enjoyed a monopoly of the most convenient form of local transportation during a period of rapid industrial expansion and of rapid increase in population. It is an industry that needs relatively little working capital and whose traffic is comparatively free from fluctuation. Revenues are collected in advance or at the time the service is rendered.

Furthermore, the nickel fare is a thing of the past in almost every city, the average fare for the country at the present time being not quite 8½ cents. The courts have been liberal in permitting the street railways to break away from the restrictions in their charters, limiting them to a set fare, usually 5 cents, under the clause in the Constitution which prohibits the taking of property for a public use without just compensation. In other words, the courts have held that private property is being confiscated when a public utility is forced to operate at a loss under charter restrictions controlling rates.

THAT the courts have been exceedingly liberal is evident from a recent decision involving the question of the right of the Baltimore Street Railway Company to increase

its fares.[1] The body which had charge of the matter established a fare which the railway company claimed would result in confiscation of its property. In its decision handed down January 6, 1930, the Supreme Court of the United States held that as the rates brought to the company only 6.26 per cent, it amounted to confiscation; that a return of 6.26 per cent upon the property invested was so low as to amount, in the opinion of the court, to a violation of the Constitution. Included in the elements which made the rate base was the value of the franchise which had been given to the railway company.

In this particular case it was estimated that the franchise was of a value of $5,000,000 which, in the opinion of the court, the company had a right to include in establishing the rate base and value upon which the company could collect a fair return. Justices Brandeis, Holmes, and Stone dissented. In this case Justice Brandeis stated:

"The claim is that the order confiscates its property because the fare fixed will yield, according to the estimates, no more than 6.26 per cent upon the assumed value.

. . .

"A net return of 6.26 per cent upon the present value of the property of a street railway enjoying a monopoly in one of the oldest, largest, and richest cities on the Atlantic Seaboard would seem to be compensatory. Moreover, the estimated return is in fact much larger, if the rules which I deem applicable are followed. It is 6.70 per cent if, in valuing the rate base, the prevailing rule which eliminates franchises from a rate base is applied. And it is 7.78 per cent if also, in lieu of the deduction for depreciation ordered by the court of appeals the amount is fixed, either by the method of an annual depreciation charge computed according to the rules commonly applied in business, or by some alternative method, at the sum which the long experience of this railway proves to have been adequate for it.

"*First.* The value of the plant adopted by the commission as the base rate was fixed by it at $75,000,000 in a separate valuation case decided on March 9, 1926, modified pursuant to directions of the court of appeals, on February 1, 1928, and not before us for review, *Re* United Railways & Electric Co., P.U.R.1926C, 441, P.U.R.1928B, 737. Included in this total is $5,000,000 representing the value placed upon the railways' so-called 'easements.' If they are excluded, the estimated yield found by the commission would be increased by .44 per cent. That is, the net earnings, estimated at $4,691,606, would yield on a $70,000,000 rate base 6.70 per cent. The people's counsel contended that since these 'easements' are merely the privilege gratuitously granted to the railways by various county and municipal franchises to lay tracks and operate street cars on the public highways, they should be excluded from the rate base when considering whether the order is confiscatory, in violation of the Federal Constitution."

[1] P.U.R.1930A, 225.

SUCH liberality on the part of the courts came too late for many of the street railway companies. In towns and small cities failure and liquidation were inevitable. The war inflation and the automobile sealed their doom. As they were not built to serve communities that needed them, they faced evil days when they became burdened with sudden increases in expenses with no corresponding increases in rates of fare or in passenger traffic.

RECEIVERSHIPS of electric railways have been as follows:

Year	*Number of Companies*	*Miles of Track*
1914	10	362
1915	27	1,152
1916	15	359
1917	21	1,177
1918	29	2,018
1919	48	3,781
1920	19	1,065
1921	19	986
1922	14	695
1923	12	334
1924	12	1,022
1925	14	1,260
1926	16	1,228
1927	13	624
1928	8	262

Where the Hope Lies of Regaining for the Street Car Some of Its Lost Traffic

"SLOGANS, advertising, improvements that make for more comfortable riding, solicitude for the customers' good will, the operation of busses, and other means are being used to try to regain at least part of this lost traffic. It is this changed attitude of its relationship to the public that promises some hope. Indeed, the future of the industry looks reasonably bright to those who take the view that in the larger cities nothing else but street cars will do the transportation work efficiently."

What were the causes of this collapse in street railway operations?

One cause is to be found in the reckless management which characterized many street railway projects in their early days. Overbuilding, improper dividend policies, overvaluation of assets, free issue of bonus stock, and other such practices rose up before the companies to haunt them.

A second problem has been the obsolescence of street railway properties due to the rapid improvements in technique.

In the third place, increase in prices and wages due to the war inflation increased the operating cost of the companies. Furthermore, the evidence seems to indicate that where increases in fares were secured, revenues increased but it was not proportional. The facts indicate wide variations, however, in individual cases.

ANOTHER problem has been the competition of the automobile. It has been my purpose to try to indicate clearly that the automobile is not solely to blame for the unhealthy condition of the street railway business. It is for this reason that I have set forth the above facts. Nevertheless, the automobile may be or may come to be the straw that breaks the camel's back unless the street railway companies solve the problem of its competition in a constructive manner.

That it is a problem is evident from the statement of L. F. Loree, president of the Delaware & Hudson Railroad, who has declared that the country could wipe off the books the six thousand million dollars invested in electric street and interurban railroads, because the automobile, truck, and motorbus have placed them in the discard as effectively as the steam railroad shelved the stagecoach and stagecoach tavern during the last century. Likewise, Dr. John Bauer is quoted as saying that he cannot see an economic life of more than twenty years at the outside for the surface street car in large cities.

In many cases of abandonment, however, only the street cars and tracks and not the transportation

service have been abandoned by the street railway companies. Indeed, this seems to be the inevitable development in the future, with the transition occurring first in the less congested districts of cities. But whether it will ultimately destroy the street railway cars as now operated within the congested areas of the larger cities is open to doubt and is a problem which only time can solve.

MOST street railway officials saw that the bus could and would be used against them. The result has been in most cases that the railway companies now operate the busses on the theory that the place of the bus in urban transportation is as an auxiliary to the street car system, which is still the best and cheapest surface system for handling masses of people quickly. Furthermore, the bus is being used by the street railway companies when extensions of service have to be provided. In Salt Lake City, Philadelphia, Knoxville, and a few other cities "trackless trolleys" are being used to some extent.

This development is evident from the following data:

Busses operated by Electric Railways

Year	*Number*	*Mileage*
1921	129	
1922	300	
1923	1,173	
1924	2,394	
1925	5,207	
1926	7,505	15,300
1927	8,864	17,500
1928	10,719	22,032

The acquisition of the bus service and the decline in the number of receiverships in recent years—13 in 1927 and only 8 in 1928—indicate some improvement and constitute the factors that may cause some increase in optimism. Furthermore, the reorganization of some of the companies that have failed has been steadily progressing, relations with the public are improved, fares are higher than ever before, expenses have been declining in recent years, and the space-occupying automobile has failed as yet to dominate the city streets or to prove its utility in mass transportation.

DESPITE these improved conditions the street railway situation is still unstable. What the companies are striving to secure is some of the business they have lost to the private automobile. Slogans, advertising, improvements that make for more comfortable riding, solicitude for the customers' good will, the operation of busses, and other means are being used to try to regain at least part of this lost traffic. It is this changed attitude of its relationship to the public that promises some hope. Indeed, the future of the industry looks reasonably bright to those who take the view that in the larger cities nothing else but street cars, in the long run, will do the transportation work efficiently.

EDITORS' NOTE: In a coming issue of PUBLIC UTILITIES FORTNIGHTLY will be published, as supplementary to DR. GARIS' article, brief analyses of the street railway situation as viewed throughout the country by state commissioners and utility executives—a symposium constituting a real cross-section of the views that at present prevail on this timely and pressing problem.

Remarkable Remarks

CHARLES P. STEINMETZ
(A prophecy made in 1915).

"We will use electricity as freely as water."

CHARLES E. HUGHES
Chief Justice, U. S. Supreme Court.

"Encroachments upon state authority must be resisted with intelligent determination."

DR. JOHN BAUER
American Public Utilities Bureau.

"We are probably at the mere threshold of government regulation of business."

MARTIN J. INSULL
President, Middle West Utilities Company.

"We are being criticized now because we have told the people too much."

J. F. CURRY
Columbia Gas & Electric Co.

"No business, no matter how well fortified or self-satisfied, can stand still; it must either go forward or backward."

NORMAN THOMAS
Socialist and publicist.

"No amount of regulation can bring it to pass that private corporations can or will pay as little for capital as public corporations or government."

BRUCE BARTON
Advertising agent.

"If the government had owned the automobile business the Ford would still be a Model T, and the Chevrolet would be a four-cylinder car."

DONALD R. RICHBERG
Lawyer and author.

"One of the largest employers in the country testified on my cross-examination that the best guarantee of labor efficiency in his opinion was a long line of applicants for jobs waiting at the gate!"

WILLIAM A. PRENDERGAST
Former Chairman of New York Public Service Commission.

"It may be confidently asserted that the rulings of the Supreme Court hamper no one who has an honest intention to follow them and base a valuation on 'present value.'"

EARNEST K. LINDLEY
Magazine writer.

"Perhaps Governor Roosevelt's most notable accomplishment was the conversion of the utility-minded majority of the New York Public Service Commission into a minority."

F. P. ADAMS
Newspaper columnist.

"Locomotives are to be named for prominent men, and we hope there will be a rumor that one is to be named in honor of William Wrigley, Jr. . . . But you've guessed it, you rogue! . . . Chew-chew."

HERBERT HOOVER
Late Secretary of Commerce.

"Electricity is the greatest tool that has ever come into the hands of man; the degree to which we use this tool will largely determine the rate of social and industrial progress."

A contributor to "Collier's."

"We are authorized by a number of readers to deny that the United States Senate rebelled against the dial system of telephones because the members of that great body were forever getting their heads caught in the perforations in the dials."

PROFESSOR THOMAS F. BALL
Tax expert, University of South Carolina.

"If the publicly owned utility is to become a competitor of the privately owned utility, its property should be assessed for taxation so that its rates will be the same as those of the private company rendering the same type of service."

HAROLD G. HOFFMAN
Commissioner of Motor Vehicles for New Jersey.

"The use of (compressed air) horns is typical of the get-out-of-the-way attitude of high-powered busses, whose operators seem to delight in frightening other users of the highways, and in trying to convey the impression that the big bus is the 'monarch of the road.'"

BERNARD J. MULLANEY
President, American Gas Association.

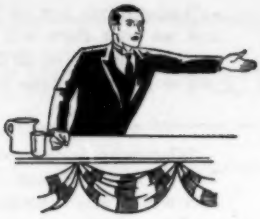
"None but the blind, the deaf, and the dumb are justified in doubting the existence of organized effort in this country to change the character of our government in its relation to all business and industry, and eventually make the United States a socialistic nation."

WALTER WINCHELL
Broadway's gossip.

"The Western Union Telegraph Company forbids its operators to tell a woman news of a death *via* the 'phone because women usually faint from the shock and the Western Union wouldn't be certain if the message was delivered. Men do not matter."

ALEXANDER FORWARD
Managing Director, American Gas Association.

"Should you ask me the next important field to be fought and conquered by our industry I would reply that it is in the manufacture of cold. We should be the principal factor in cooling the office buildings, the stores, the factories, the hotels, the homes, the foods in the groceries and meat markets."



The Rôle of the Utilities in the Coming Elections

A survey of the political battles that are being waged in those states where the regulation and operation of public service corporations have become either major or minor issues

By HAROLD BRAYMAN

PROHIBITION may be the irrepressible social issue of the day but the regulation of public utilities seems to be the irrepressible economic issue.

Wherever there is a party organization careless of its responsibilities and subservient to huge utility interests, there the reaction inevitably arises sooner or later and power or rates becomes an issue. Wherever a demagogue seeking office has no other dramatic complaint against conditions as they are he begins to rave and rant about the "power trust." Wherever a spineless straddling politician does not dare to take an honest position on prohibition he drags forth power and announces himself an economic Messiah, come to save the common people. Wherever public utility companies have been pictured as a "grasping octopus," and giving as little service as possible, while they meddled in politics to protect and perpetuate their rapacity, their regulation has become an issue. Wherever they have been represented as seeking to thwart public regulation by court decision, the issue exists.

The purpose of this article is to give a survey of the power and public utility issue in the campaigns this fall in those states where it is most prominent—not to air personal opinions as to which of the above causes has been the basis of its becoming an issue. In many cases that is debatable and one's opinion is determined by one's point of view.

THERE are probably not many unprejudiced persons who would question the high motives or the sincerity of Senator George W. Norris, or of Gifford Pinchot, or of Alfred E. Smith, or of Franklin D. Roosevelt, the four most outstanding advocates of more drastic public regulation. But there are many people

whose prejudices and viewpoint make them differ as to which of the above reasons motivates each of those four to crusade against the public utilities.

Opinion is influenced both ways by public skepticism. It is hard for the ordinary individual to believe that the public utility company with which he deals—the company which holds a monopoly—is a philanthropic institution serving the people first and its stockholders only secondarily, as some of the blurbs from the utility companies would indicate. It is also hard for the individual to believe in the sincerity of the politician who makes utilities an issue, because for every intellectually honest critic who does so, there are a hundred raving soapbox spellbinders and "Red Mike" Hylans splitting their lungs about the power trust or the 5-cent fare.

DESPITE the element of political opportunism in making the power issue prominent, it is difficult to believe that the utility companies are not themselves fundamentally responsible, at least in part, for the fact that they are an outstanding political issue today in New York, Pennsylvania, Nebraska, Alabama, Tennessee, Kentucky, Maine, Massachusetts, and Connecticut, and a lesser issue in many other states. Were it not for their reputedly unwise efforts in the past to acquire more profits, to pyramid capitalization, and then seek increased rates through public service commissions and the courts on the basis of unsupportable valuations, they would not be held in such general public distrust as to be a subject of political opportunism, against which every third-rate demagogue could stir up a storm.

In localities where the utility companies have adopted prudent policies of giving excellent service for a reasonable profit upon a reasonable valuation, the issue has made no headway. In such places the utility companies have not been forced to the extremity of selling stock in small quantities to a wide number of consumers in order to maintain their economic security.

There is no public storm against the railroads, many of which have monopolies on transportation in many localities. Why should there be against certain utility companies? Call the advocates of stricter public regulation of the utilities demagogues if you will—demagogues do not rise to attack unless the object at which they strike is open to attack.

THE issue is perhaps more purely academic in New York than anywhere else, because there it is chiefly the intellectual question of whether public ownership and operation of undeveloped power resources is superior as a public policy to private operation under long-term leases.

There is an additional factor which gives the New York controversy nationwide significance. Power is Governor Roosevelt's principal issue and if he is reëlected he becomes a potential presidential possibility at a time when the Republican administration is at its weakest in years. If he should ever run for President or become President, he could be counted upon to dramatize the issue nationally as he has done in every city and village in New York.

In concrete form the question is:

Shall the development of the St. Lawrence river be made by the state or shall the power sites be leased for fifty years with a recapture clause by which the state might buy the property?

The St. Lawrence is the largest undeveloped natural power resource in America. From a proposed dam at the foot of the Long Sault rapids over 5,000,000 horsepower can be obtained, half of which would belong to the United States and half to Canada. It is a stupendous development which would cost nearly as much as the Panama canal did, and its sponsors draw a picture to New York state voters of abundant cheap electricity for the villages, the cities, and the farms.

THE background of the present issue is inherited from the Smith administration. Former Governor Smith always advocated development by a water power authority, a quasi public corporation, which would issue bonds secured by state credit, and then operate the plant and sell the power to private distributing companies under contract that it be retailed at specified rates. The Republican legislature would never give the governor his power authority. Under the Miller Law of 1921 the Republicans once started to lease the site to the Frontier Corporation. Smith turned a public spotlight on them and dared them to proceed; they suffered a sudden and acute case of cold feet and induced the Frontier Corporation to withdraw its application.

When Franklin D. Roosevelt succeeded Smith, he revived the issue and gave it new life by insisting that something be done rather than allow the huge amount of hydroelectric energy to continue flowing on to the sea. The legislature authorized a commission to study the governor's plan of development, and if that proved unsatisfactory then to study other plans, and report to the 1931 legislature. They seemed under the impression that thus they were taking the issue out of politics. It is very much in the gubernatorial campaign however. No one doubts that the commission appointed will report favorably on the governor's plan, thus making it a legislative issue next winter. Foreseeing that, Mr. Roosevelt is going about the state asking for the election of a Democratic legislature so that he can get his plan enacted into law when it is reported. Incidentally he is not discouraging the idea that he should be reëlected also, so that he can continue to fight for public operation. It is his big issue, and particularly so since the Republicans have gone wet in New York, leaving only a remnant of the prohibition issue which has figured most prominently in previous campaigns.

THE New York Republicans are not neglecting water power either. Between crazed cries at the discovery that Tammany is wicked they are upbraiding Governor Roosevelt for his delay from March until August in appointing the water power commission and charging that in doing this he thwarted the legislature's hope for a thorough and painstaking survey. The foundation is thus being laid for opposition in the next legislature when the commission re-

ports in favor of state development.

In the meantime Governor Roosevelt is doing all he can to dramatize the issue. Up in the little village of Gouverneur, near the Canadian border, there is a municipal plant on the Oswegatchie. The village is reported to generate its power for something less than one cent a kilowatt hour, lights the village streets, and sells the surplus power to the St. Lawrence County Utilities Company for 1¾ cents a kilowatt hour. The company in turn sells it to the consumer for 9 cents a kilowatt hour. The governor has made an example of this by publicly advising the village to apply to the public service commission for a permit to sell its power directly to the consumer and suggesting that if they sell it for 5 cents a kilowatt hour they will receive enough revenue to abolish all other forms of local taxation, and at the same time make a substantial saving for the consumer.

THE regulation of the utilities is also an issue in milder form because of action by the new Roosevelt-appointed chairman of the public service commission in attempting to lower electric rates in New York city. Soon after Chairman Maltbie took office he called in the heads of the companies and talked about reduced rates. After much discussion the utilities submitted a proposal to reduce the kilowatt hour rate from 7 cents to 5 cents and thus increase the halo about a nickel in America's first city. But they also proposed a meter charge of 60 cents so that the net effect would be an increased rate for the small consumers and a substantial reduction for the large ones. Revenues from the new schedules would be decreased $6,000,000. Consumers' organizations and the city are objecting vigorously. The commission is making a strenuous effort to secure some agreement, however, and later on is expected to attempt similar reductions in other parts of the state.

All over the commonwealth Mr. Roosevelt has advocated cheaper electricity for the householder and the farmer through the St. Lawrence development and the "restoration" of the state's regulatory power. A commission to study and suggest revision of the public service law proposed substitution of "prudent investment cost" for reproduction cost as the chief element in determining public utility valuations. It also advocated the fixing of rates through compulsory contracts limiting earnings to the amount actually required to attract capital, and recommended that the establishment of competing municipal and

¶ "WHEREVER *a demagogue seeking office has no other dramatic complaint against conditions as they are he begins to rave and rant about the 'power trust.' Wherever a spineless straddling politician does not dare to take an honest position on prohibition he drags forth power and announces himself an economic Messiah, come to save the common people.*"

regional electric plants be encouraged.

Governor Roosevelt, however, has not yet presented any completely formulated plan for regulating the public utilities and solving this complex and vexing problem. To find that, we must turn to Pennsylvania where Gifford Pinchot is running for governor with power and more drastic utility regulation as his major issue.

THE Pennsylvania situation is curious. Were it not for the fact that throughout Mr. Pinchot's public career he has been consistently an advocate of stricter utility regulation, he would doubtless be open to the charge of striking at the utilities to divert attention from the prohibition issue, inasmuch as he is running as a Dry in a Wet state. The Democratic candidate, Hemphill, is hardly deigning to notice the power issue. He is concentrating on an effort to gain the support of the Wets in both camps and the conservatives in the Republican party to whom Mr. Pinchot's utility policies do not appeal. Hence he emphasizes prohibition and skates rapidly over power while Mr. Pinchot emphasizes power and skates rapidly over prohibition.

The Pinchot ideal of state supervision is embodied in the "giant power plan" developed by a special commission during his previous term as governor, but presented to the legislature too late in that term to be carefully considered. It provides generally for the state supervision of production and distribution of power, the pooling of all power generated, and the distribution of all power from this common pool through giant trunk lines making it available at reduced prices. His 1930 stand is very similar to this except it is amplified by the addition of opposition to the present system of supervising all utilities. He believes that the Pennsylvania regulatory commission is favoring the utilites rather than the public and wants to establish more effective public regulation.

MR. Pinchot fought the public service commission furiously all during his administration as governor. He tried to remove some of its members (who have 10-year terms) but the supreme court held that the power to appoint did not imply the power to remove. So in order to depose the members of the present commission Mr. Pinchot now advocates a "ripper" measure repealing the Public Service Corporation Act, to be followed by the enactment of a new law providing for an elective "Fair Rate Board." In that way Mr. Pinchot would have a chance to get a new regulatory body responsive to his ideas and which he hopes would be more sympathetic to the public interest and less so to private interest.

The issue in Pennsylvania is, therefore, more a matter of personalities than in New York. The public service commissioners are fighting for their tenure of office. Pinchot is fighting to get rid of them by the only means available. The public utilities of all kinds are fighting against the creation of a board which might approach decisions with a fundamental prejudice against the private interests involved. The whole state realizes Pinchot's astonishing power over a legislature, which he demonstrated in

The Two Extreme Pictures of a Utility—as Painted for Political Purposes

"It is hard for the ordinary individual to believe that the public utility company with which he deals is a philanthropic institution. . . . It is also hard for the individual to believe in the sincerity of the politician who makes utilities an issue, because for every intellectually honest critic who does so, there are a hundred raving soap-box spellbinders and 'Red Mike' Hylans splitting their lungs about the 'power trust' or the 5-cent fare."

his first term, and knows that if he is elected he might force through much of the program he proposes. Prohibition may be oftener in the headlines but it is the economic issue which makes the campaign ferocious.

Wherever water power is an active issue locally it is an issue in the congressional elections because of Muscle Shoals. The government's development in Tennessee is the shining symbol all over the country of the conflict between private and public operation.

Out on the Nebraska prairies where there is no waterfall within hundreds of miles, hydroelectric power is an important issue because of the activity of Senator George W. Norris to compel government operation of Muscle Shoals.

The question is almost synonymous with Senator Norris' candidacy. The utilities in Nebraska have always been counted as opponents, more or less openly, of the senior Senator, and before the Nye campaign expenditures committee showed that the spurious primary candidacy of George W. Norris, the Broken Bow grocer, was inspired from sources in close association with the Republican National Committee, many people attributed this political trickery to the "scheming power trust." There are some who are still not convinced that power interests, outside Nebraska if not in the state, did not have a hand in it.

Senator Robert B. Howell, Norris' colleague, is one of these. In radio talks and otherwise he charged that the Nebraska Power Company and other companies were involved in the plotting against Senator Norris. Two years before when Howell was running for the Senate his opponent had charged that the power companies were financing his campaign. They denied it. When Senator Howell accused them of putting up money to defeat Norris, J. E. Davidson, president of the Nebraska Power Company and former president of the National Electric Light Association, struck back vigorously in a statement

which was widely printed in newspaper advertising space.

"It is regrettable," said Mr. Davidson, "that we must step forward and publicly brand Mr. Howell's statements as false. The Nebraska Power Company has not contributed one cent to the campaign fund. . . . We call upon Senator Howell to come forth with his evidence. . . . If Senator Howell is sincere in the statements he has made, then he should have appeared before the Senate Investigating Committee during its special session in this state, and have given testimony as to what he knew or heard. Senator Nye, chairman of the committee, and an intimate friend of Senators Norris and Howell, following his investigation here, certainly would have grasped the opportunity to let the public in on such a plot as charged by Mr. Howell, if there had been evidence to substantiate. . . . Now it is up to Senator Howell to bring forth his proof."

At the time this is written there is nothing to justify any connection between the power companies and the absurd candidacy of the village grocer, whose only recommendation was that he bore a name which could not be distinguished on the ballot by either voter or election official from that of the sitting United States Senator, a nationally known utility company foe.

Nevertheless, power is an outstanding issue in Nebraska because Senator Norris' friends set forth his efforts in behalf of government operation of Muscle Shoals and stricter regulation of private utility enterprises as one of his outstanding services to the state and the Nation. His opponents have to admit this service or oppose his position. They always choose the latter course, assail him for being radical, and consequently bring to themselves the support of the more conservative business interests of the state.

In Nebraska the issue tends, therefore, to be academic as in New York, but in Tennessee and Alabama where the Muscle Shoals plant is a local matter, it figures prominently with every campaigner.

In the first district of Tennessee Muscle Shoals was the subject of a hot primary fight between Representative B. Carroll Reece and Sam. W. Price. Mr. Reece took the position that immediate utilization of the available power was more important to the Tennessee valley than the method by which it was utilized. He argued that the Norris plan of government operation could never be put into effect and was, therefore, politically impracticable. To support this he obtained a letter from President Hoover saying that the House of Representatives would never pass and the President never sign the Norris plan. Reece argued that to bring the Tennessee valley the advantages of full operation and to promote construction of the proposed Cove creek dam in his district he had taken the wisest course in supporting a lease to private companies. Price accused him of being in league with the power companies and of acting against the best interest of "the valley."

Representative Reece won by a majority of about five to four but Price is running independently with Muscle Shoals as his big talking point. The

district is predominantly Republican and the election of Reece is regarded as quite certain. Elsewhere in Tennessee the issue is not active.

ACROSS the line in Alabama other issues have superseded power. Senator Heflin, fighting as an independent to retain his political hide, takes no definite position. Though excellently fitted to be a "power trust" demagogue, he has capitalized other cries more successfully. His opponent is John H. Bankhead who won a primary fight against Frederick I. Thompson, a newspaper publisher of Mobile and Montgomery, who charged him with being the tool of the Alabama Power Company. Bankhead had once been an attorney in a local matter for the power company and had received a $500 fee. His affiliations and environment were also attacked and he was pictured by Thompson as a representative of corporate greed. It was charged that the power company dominated the state and that Thompson must be nominated to restore control to the people. Bankhead won the primary by a vote of nearly two to one, and in the fight between him and Heflin water power and utilities has been a wholly subordinate question.

THE power situation has been precipitated into politics in Kentucky and is an active issue in the senatorial contest this fall because of the effort of the Insull interests to get permission for a hydroelectric development at Cumberland Falls.

The Insull application for a 50-year development license is pending before the Federal Power Commission. Both Senator John M. Robsion, Republican candidate to succeed himself, and Flem D. Sampson, the Republican governor, have appeared before the power commission in behalf of it. While the application was pending Coleman Du Pont, who plays a different rôle in his native state of Kentucky than he does in Delaware, offered to finance the purchase of all necessary land about the Falls for the creation of a state park.

There was a vigorous battle in the last legislature over this offer. The legislature, which was Democratic, voted to accept the Du Pont proposal, gave the park commission controlled by the governor a limited time to institute condemnation proceedings, and if they failed to do so, directed the Democratic attorney general to seize the land under right of eminent domain. Governor Sampson vetoed the bill and it was passed over his objections. The attorney general has acted, but Judge M. M. Logan, Democratic candidate for the long senatorial term, and Ben Williamson, candidate for the short term, are both charging Robsion with trying to help the Insull interests obtain possession of the site. The fact that Senator Robsion and Governor Sampson are political pals in Kentucky is giving color and weight to the charge and making it an effective campaign issue.

IN New England where hydroelectric power, developed and undeveloped, exists in huge quantities, the power and utilities regulation issue is prominent in four states—Connecticut, Maine, New Hampshire, and Massachusetts.

In Connecticut the rule of J. Henry Roraback, Republican dictator of the

¶ "WERE *it not for their reputedly unwise efforts in the past to acquire more profits, to pyramid capitalization, and then seek increased rates through public service commissions and the courts on the basis of unsupportable valuations, they would not be held in such general public distrust as to be a subject of political opportunitism, against which every third-rate demagogue could stir up a storm. In localities where the utilities have adopted prudent policies of giving excellent service for a reasonable profit upon a reasonable valuation, the issue has made no headway.*"

state and president of the Connecticut Light and Power Company, was challenged unsuccessfully by Albert J. Levitt, who was an independent Republican candidate for the nomination as governor. His campaign was based largely on criticism of the regulation of utilities by the public utilities commission. He started a legal action last summer for the removal of the members of the commission because of alleged failure to enforce the grade crossing elimination law, and litigation is still under way. He attacked Roraback vigorously. His real opposition to the commission, he admitted, was due to his conviction that it is subservient to Mr. Roraback, and he argued that the president of the Connecticut Light and Power Company, the largest public utility in the state, should not be intrusted with political power that enables him to say who the men shall be who pass on rates and other utility questions.

His candidacy was hopeless, but the Democratic aspirant, Professor Wilbur L. Cross of Yale, has taken up the Levitt issue in respect to "Rorabackism." The Republican and Democratic organizations in Connecticut, however, have developed tacit agreements in critical times in the past, it has been charged, and there is a question whether Professor Cross will get solid Democratic support, or will make such an utter failure as a vote getter as did Hamilton Holt a few years back when Senator Hiram Bingham was his opponent. The election of a Democrat in Connecticut requires something closely akin to a miracle anyway.

IN Massachusetts, power as such is not a very active issue in the campaign but there is a referendum on public ownership of the Boston Elevated Railway in the Metropolitan Transit District which includes the cities of Boston, Cambridge, Chelsea, Everett, Malden, Medford, Revere, and Somerville and several outlying towns. Three propositions are being submitted, as follows:

Plan No. 1: Return to the Boston Elevated Railway Company of the management and operation of its railway system by terminating public management and operation thereof.

Plan No. 2: Continuation of public management and operation of the Boston Elevated Railway Company in accordance with such terms and conditions as may be agreed to by the stockholders of said company.

Plan No. 3: Purchase by the Met-

ropolitan Transit District of the whole assets, property, and franchises of the Boston Elevated Railway Company, the same thereafter to be owned, managed, and operated by said district.

The referendum is not binding and will have no legal effect, but will merely inform the legislature of the opinion of the people. The laws to put into effect any of the suggested plans must be passed by the legislature.

IN the state campaign, Joseph B. Ely, Democratic candidate for governor, is being accused of being a "representative of the power trust." To this he has replied that he favors a law which will make it easier for the municipalities to acquire ownership of utility plants when convinced that they are not getting fair rates or securing satisfactory regulation. He has also declared himself for rates based on the theory of "prudent investment cost," expressed a belief that the marketing of the shares of holding companies jeopardizes the success of state regulation of operating companies, and abandoned hope of any solution of the problems of the Boston Elevated except by public ownership.

IN New Hampshire the utilities are entering in a lackadaisical way into the campaign. The Republican nomination was won by former Governor Winant who has pledged himself to do everything in his power "to support the public service commission in its effort to protect the public interest" with respect to the utilities. The commission has under way an investigation of the financial structure of some of the utility companies.

IN Maine the election is all over but the contest was interesting. There is a tradition in that state that governors shall have two terms unless they demonstrate gross incompetency or carry off the state capitol. When the referendum was up a year ago on the question of permitting the exportation of power from Maine, Governor William Tudor Gardner let it be known that he favored exportation. The referendum went strongly against this. In the primaries this year John Wilson, mayor of Bangor, entered against him, stressed the power issue, and obtained 40,000 votes against Gardner's 59,000. Edward C. Moran, Jr., the Democratic nominee, raised the power issue and advocated extension of the authority of the public utility commission. Gardner won by only 16,000 votes contrasted with a majority of 82,000 in 1928, but doubtless general economic conditions, the disrepute of the Hoover administration, and other factors were influential as well as the power issue.

THE utilities have suddenly jumped into the spotlight in Georgia as a result of the opening of operation of a county power plant in Crisp county on August 1st. The municipal plant began operation with a set of rates 10 to 15 per cent lower than those charged by the Georgia Power Company. The private enterprise immediately met this challenge by cutting its own rates 35 per cent—but in Crisp county only.

The Georgia Public Service Commission quickly noted this striking reduction and issued a preliminary order directing the company to reduce its rates throughout the state to the Crisp county level. A hearing date was set at which the company was di-

rected to show cause why the order should not be made permanent. The company immediately jumped into the courts, however, and obtained an injunction against the public service commission's order.

The question is still under litigation and the Georgia Power Company has been made an overnight political issue.

To a lesser extent utilities are an issue in many other states, but nowhere an outstanding issue.

In Oregon, for example, the Republican candidate for governor, Phillip Metschan, is advocating Federal development of the Columbia river for power, transportation, and irrigation.

In Wisconsin the La Follettes are making some references to the power issue, but they did not think it sufficiently important to nominate for attorney general Alvin Ries who has a plan and is exceptionally well informed upon the subject.

In California the power issue has been active locally, but Boulder Dam has largely destroyed it as a vote influencing proposition in the southern part of the state. San Francisco has just turned down a bond issue to provide funds for the purchase of Pacific Gas & Electric Company and Great Western Power Company properties in that city and to provide for the purchase of a transmission line to carry power to the city from the municipally owned Hetchy-Hetchy plant. While locally active, it is no longer a statewide issue of importance.

Arizona gets warmed up periodically about Boulder Dam, and water power is frequently discussed in Montana and Colorado.

In none of these states, however, is it a deciding issue.

How to Make Political Thunder Out of Utility Regulation

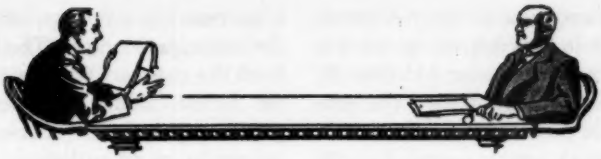
Pages from the Democratic and Republican Cook Books

From the 1930 platform of the Republican Party of New York state.

"SINCE March 1, 1927, the public service commission has been controlled by the Democratic party. Since that time many questions relating to the control of public utility corporations, including the rates charged by these companies, have been dealt with by the commission in a manner which has tended to weaken public confidence. With this fact in mind, the Republican majority in the legislature created a committee to revise the Public Service Commission Law. Pursuant to the findings of this committee, the legislature passed a series of bills at its last session designed to make more effective the state's control over the public utility companies which it permits to operate within its borders. Many of these bills were enacted into laws, but some of the most important were vetoed by the governor at the request of the corporations affected."

From the 1930 platform of the Democratic Party of New York state.

"EVERY consumer of electricity, gas, or telephone service knows that the machinery for regulation of public utilities has failed. Bills introduced in 1930 by Democratic leaders in the legislature to obtain lower rates and better service were defeated by the Republican majority. Republican subservience to the huge public utility combines of the state prevented even a fair consideration of efforts at effective regulation. A completely new policy is necessary. We believe that electrical energy should be developed by the state from the water power resources in order to insure low-priced electricity."



SIGNIFICANT PUBLIC UTILITY CASES NOW

Before the Supreme Court

By FRANCIS X. WELCH

THERE is probably no stronger evidence of the increasing importance of utility regulation in the everyday lives of our citizens than the rapidly growing percentage of regulatory cases on the docket of the United States Supreme Court.

The current term, which opened October 6, 1930, found on the docket several important appeals from decisions of lower courts and commissions.

The principles involved, in these cases, the relative significance of them as well as the possible effect on the utility industry, are here briefly summarized.

PROBABLY the most interesting case on the October 6th docket is North Port Power & Light Co. *v.* Hartley, No. 66, concerning the transmission of electricity from Canada into the state of Washington.

The petition filed by this company, which is controlled by the West Kootenay Power & Light Company, Limited, of Canada, questions the constitutionality of the application of Washington's alien landowner laws to public utilities incorporated within the United States but controlled by foreign capital. The petitioner claims that the statute in question violates, not only the Fourteenth Amendment of the Constitution, but also the Treaty with Great Britain of 1815. If sustained, the competitive operations of this petitioner will be keenly felt, not only by the private power companies of the extreme northwest, but also the municipal plants in the Puget Sound region.

FROM South Carolina comes a petition in Halpin *v.* Savannah River Electric Co. No. 200, resisting an attempted condemnation of lands on the east bank of the Savannah river for hydroelectric development. The petitioner insists that the full value of the region depends upon the comprehensive power site embracing both sides of the river, and that the attempted piecemeal condemnation would greatly diminish the value of the remainder.

The significance of this case lies in its effect as a precedent for future hydroelectric developments and incidental property condemnation proceedings.

IN Smith *v.* Illinois Bell Teleph. Co. No. 90, the court will be asked to pass upon the reasonableness of the telephone rates for Chicago fixed by the Illinois commission. While this

is a routine rate case in other respects, it is peculiar in that it involves the disposition of a fund of over $11,000,000 with interest, which, under the provision of the preliminary order of the lower Federal court restraining the commission's rate order of 1923, has been set aside by the company pending the final disposition of the appeal. Should the commission be victorious this sum will have to be repaid to subscribers. Just how this will be done, in view of the fact that it has been accumulating since 1923, no one seems to know with any degree of certainty since many of the subscribers have since died or moved away. In the event of the company's victory, the fund will pass into corporate surplus.

THE Wisconsin commission in Railroad Commission *v.* Maxcy, No. 464, appeals from a judgment of a special statutory Federal court restraining as confiscatory the rates fixed by the commission for the Washburn waterworks. This is one of the few water rate cases to reach the highest court. Utility observers are watching this case to see if the court will stand by its statement, given in the recent Baltimore fare case, that a return of from 7½ to 8 per cent is necessary to avoid confiscation.

IS a contract in restraint of trade, even though the restraint be partial, contrary to public policy if made by a public utility?

This is the broad and interesting question raised in Twin City Pipe Line Co. *v.* Harding Glass Co. No. 330. The suit was brought by the pipe line gas company to restrain the glass company from a threatened breach of its contract to "take all of its requirements of gas for its plant" from the petitioner. The lower court held the contract void as against public policy. This is a new and important point that merits the close attention of all utilities.

NEBRASKA'S irrigation laws are under fire in Spurrier *v.* Mitchell Irrig. Dist. No. 306. According to the Nebraska Supreme Court these laws permit voluntary irrigation districts to acquire legal easements over private land without the consent of or compensation to property owners. The suit is brought by landowners claiming to be deprived of property without due process of law. The state's opposition is based on the ground that all land in Nebraska is subject to the burden of subterranean drainage for irrigation purposes. If the state is sustained, municipal water and canal companies in Nebraska will gain a tremendous advantage over privately owned utilities of this type.

THE water rights dispute between the city of San Diego and Spring Valley Irrigation District No. 305, is merely interesting from a historical viewpoint, but its significance is purely local. The city claims rights in the San Diego river by virtue of ancient grants from the Viceroy of the King of Spain prior to American possession. The water district claims title through United States grants and certain Indian tribes.

ALTHOUGH it involves only the granting of a motor carrier's certificate of convenience and necessity by the Ohio commission, the case of Salisbury Transp. Co. *v.* Stark Electric R. Co. No. 162, bites into the

very foundation of commission regulation. The highest court is asked to review a decision of the supreme court of Ohio reversing the action of the Ohio commission. The action of the court, it is claimed, was based simply on an interpretation of the findings of one of the commissions without giving any consideration to the record of the proceedings as required by law. The case should determine to a considerable extent the proper duty of an appellate court in reviewing commission orders.

A BOLD attack is made by the plaintiff in Cox *v.* Colorado, No. 20, on the validity of Colorado's public utility laws. Mr. Cox was found guilty by the Colorado commission of operating a motor trucking service without a certificate. In addition to the usual constitutional objections, he claims that these laws as administered by the state commission are contrary to a republican form of government which prohibits governing agencies exercising executive, judicial, or legislative powers from exercising any two or all of them at the same time. Mr. Cox's challenge is interesting but is not expected by veteran lawyers to get anywhere.

SOME attention should be bestowed on the case of North Bend State Lines *v.* Denney, No. 134, in which the right of the Washington commission to grant a certificate to a motor carrier over a route already served in part by an existing certificate holder is challenged. The appellant claimed that it was rendering adequate service over a certain route when the commission granted a certificate of wider scope to another carrier on grounds that "through service" was more convenient to the public than the connected service previously rendered in that territory. The appellant asserts that this was a mere pretext for depriving it of its property by way of profitable business.

A NUMBER of cases on the October 6th docket concern the application of state taxing statutes to public utilities, but by far the most important is East Ohio Gas Co. *v.* Tax Commission. Profits of two great utility fields depend on this decision and taxes approximating $2,000,000 are now impounded pending the disposition of the matter. Besides this the case is important as a precedent defining the powers of the state in taxing gas and electric companies operating in interstate commerce.

It involves the right of the state of Ohio to collect a tax on receipts from natural gas produced in West Virginia and piped across the state line for distribution in Ohio. The precedent established will, of course, affect similar operations over any state line. The lower Federal court decided that "when the gas passed from the great transportation lines into the network of smaller distributing lines," the interstate journey must be considered as ended just as in railroad law the "breaking of bulk" by consignees of package shipments takes the carriage of such commodities out of the realm of interstate commerce. If this view is sustained, all interstate gas and electricity once appropriated for distribution will be subject to local taxation.

This case promises to be a landmark in view of the growing amount of interstate gas and electricity.

What Others Think

The Basis and Standards of Criticism of Utility Regulation Here and Abroad

IN measuring the effectiveness of any human institution it makes a great deal of difference in the result whether our standard is perfection or whether allowances are made for human fallibility. This applies to criticism of state commission regulation of public utilities. We cannot judge the result of such regulation unless we do so in the light of the responsibilities which the commissions have. We have no right to charge them with defects which should really be charged against the legislatures in failing to give them full statutory power.

William A. Prendergast, former chairman of the New York Public Service Commission, addressing the National Electric Light Association in San Francisco, stated that the work of the commissions must be measured by the powers they own, and not by some supposed or extra-legal authority that some well-intentioned or irresponsible critics would thrust upon them.

He admitted that not even the most ardent friend of state regulation would claim that its work has approached perfection, but said that we must adopt some just and rational standard by which it is to be appraised, and that it should not be subjected to any severer test than is applied to any other important principle or practice of government. In applying this test, Mr. Prendergast claimed that regulation has responded fairly and acceptably to the public needs.

He proved this by comparison. He compares it with the practice of law itself. On all sides and particularly for the last five years, there have been demands for reforms in legal procedure. The "law's delays" has become too well known a byword. The highest dignitaries of our judicial system have been pronounced in admitting the shortcomings of the law and have pleaded for reform.

Mr. Prendergast stated further:

> "The National Bankruptcy System presents another evidence of the fact that no matter how well-conceived, every human effort must necessarily encounter difficulties in rendering even approximate satisfaction. Perhaps one of the most striking manifestations of those difficulties is found in our educational system, respecting which even its foremost leaders do not hesitate to express their doubts and disappointments.
>
> "An exacting spirit on the part of a people no matter what their form of government may be, is to be commended and encouraged. But that spirit must be tempered by the known experiences of human action."

MEASURED by human standards, the state commissions have functioned reasonably well within the limit of their powers and appropriations. The target of criticism has been the method of fixing utility rates. It is asserted that rates are not as low as they should be. This assertion is partly based on the ground that utilities are allowed to earn a return on the value of their property rather than its prudent investments, but if there is anything wrong in the existing practice the courts and not the commissions are to blame for it.

However, it will be observed that the rate controversy simmers down to a mere difference of opinion as to reasonableness. Under regulation, reasonableness of rates is determined with reference to the cost rather than to the value of the service. Measured by the value of the service, utility rates are very low. They always have been low,

for as an economic proposition no business could have grown to the extent the utility business has on the basis of exorbitant rates. If, for example, gas or electric rates had been exorbitant, or "extortionate" as some of the critics allege, we would still be burning kerosene lamps.

ANOTHER recent address, this time delivered before the American Bar Association at Chicago, by Kenneth F. Burgess, general solicitor of the Chicago, Burlington & Quincy Railroad, apprises us of the interesting fact that utility baiting, even through legal channels, has not been restricted to this country.

Mr. Burgess tells us that a year ago, the Lord Chief Justice of England, Lord Hewart of Bury, published "The New Despotism," a book which pointed out the various means adopted by Parliament to immunize orders of administrative tribunals against judicial review. Under the English constitutional system these administrative boards are part of the executive department, although they derive their powers from the acts of Parliament. Judicial review in England has restricted itself to a determination, first, whether the order of the administrative board is within the scope of its statutory authority, and, second, whether the procedural steps contemplated by the statute have been properly taken.

According to Mr. Burgess, Lord Hewart describes three forms of attempted immunization. First, in some of the acts it is provided that confirmation by an administrative board of an order issued by a subordinate official shall be conclusive evidence that the requirements of the act have been complied with and that the making of the order is within the powers of the board. Second, other acts provide that regulations made by the board shall be laid before Parliament when made and that these may be annulled only by either house within a stated period (usually twenty or twenty-eight days), addressing a prayer to the Crown that they be annulled. Third, the latest phase is for Parliament to give to the board specific authority to make orders which may in terms modify the provisions of the acts of their creation.

It is this system of exercising governmental functions through the medium of administrative boards, freed in large measure from legislative and judicial restraint, which Lord Hewart describes as "the new despotism."

ALLUDING to recent proposals to restrict review of commission decisions in the first instance to state courts, Mr. Burgess points out that while there is no difference in the substantive law as administered in the state or Federal courts, there are undoubtedly procedural differences which frequently make it to the advantage of the utility to resort to the Federal courts, and that apparently those who have sought to curtail this right believe that the utility will fare less favorably in the state courts.

He says:

> "Efforts to restrict review to the state courts have been sporadic for at least forty years. Generally they have been unsuccessful. Thus a state statute requiring a railroad as a condition of operation within a state to agree not to remove suits to the Federal courts have been held invalid. Likewise, statutes forfeiting the right of a railroad to do business in a state upon removing a state proceeding against it into a Federal court, or itself instituting a proceeding in such a court, have been held invalid on the ground that the right to resort to the Federal courts is derived from the Constitution of the United States and may not be abridged by the states. Similarly, a law of Minnesota requiring a railroad company doing business in the state to file a consent to resort to state courts to review commission orders has been held not to prevent the railroad company from enjoining such orders in the Federal district court."

Mr. Burgess then tells us about attempts in Congress to keep utilities out of appellate courts. As early as 1922, Representative Bacharach of New Jersey introduced a bill in the House to keep utilities out of Federal courts, at least until the state courts had had an

Copyright, 1930, N. Y. Tribune, Inc.

NOW THAT GASOLINE STATIONS HAVE BEEN MADE PUBLIC UTILITY STATIONS

opportunity to pass on their claims. This action was condemned by the Bar Association. In 1928, similar bills were introduced by Senator Wagner and Representatives La Guardia, Black, and Dickstein, all of New York state. Again in the 1929–30 session of Congress, similar measures were introduced by Representatives La Guardia and Cullen. So far Congress has failed to look with favor upon such legislation.

CONCERNING New York state, Mr. Burgess says:

"In New York state the legislature has during the present year, enacted a law to take advantage of that clause of § 266 of the Federal Judicial Code (28 USCA § 380), which stays proceedings in the Federal courts pending decisions by state courts in certain cases where suit is brought in a state court to enforce the order of the commission, accompanied by a stay. The New York statute provides, in substance, that when an injunction is sought in the Federal court to restrain an order of the state commission prescribing rates, the commission may file suit in the state court to enforce such order, accompanying such suit with a stay of proceedings by which its order shall be held in abeyance pending the determination of the issue by the state court. In this way it is sought to avoid a determination of the issues by the Federal court. The new law remains as yet to be judicially reviewed.

"In this connection it is of particular interest to note the demand of certain political leaders in the state of New York and elsewhere that regulatory commissioners should more actively assume the rôle of prosecutors. It is asserted that their true function should be, not to sit as the impartial judges of the controversy, but instead to divorce themselves as far as possible from that function and instead appear as a set of gladiators in combat with the utilities sought to be regulated. If this theory finds legislative favor, or the administrative commissions, under political pressure, yield to it, how much more important does it become that decisions of such tribunals, openly or covertly partisan, should continue to be subject to untrammeled court review!"

MR. Burgess' conclusions are worth the consideration of all lawyers and laymen who are seriously interested in fair regulation for public utilities. He says:

"It is thus apparent that efforts to restrict judicial review of administrative orders are by no means confined to England, but are as well of interest to those of us who, in the United States, are interested in matters of public utility regulation. Unless we should here greatly modify the principle of separation of powers as set forth in our Federal Constitution, these efforts can not make such serious headway here in substituting bureaucracy for democracy as they seem to have made abroad. The restriction of judicial review may, on occasion, be invoked to strengthen bureaucracy, but even so there is always the probability of a public resentment of regulation by administrative bodies which are partially or wholly free from judicial restraint. In England the situation seems almost paradoxical. There, with a labor government twice in power in recent years, we observe this trend toward immunization of administrative orders against judicial review proceeding to the extent, in some instances, of creating an unrestrained bureaucracy which, of course, is neither democracy nor socialism."

The right of appeal to the courts is a barrier against the invasion of the liberty of individuals by the legislative and executive branches of the government. There is less chance of abuse of judicial power than of legislative and executive power. Experience has shown that the right of appeal to the courts is a very valuable right. There is a great danger in tampering with it.

HAS STATE REGULATION PROTECTED THE PUBLIC'S INTEREST? An address by William A. Prendergast before the National Electric Light Association, San Francisco, June 19, 1930.

RECENT EFFORTS TO IMMUNIZE COMMISSION ORDERS AGAINST JUDICIAL REVIEW. An address by Kenneth F. Burgess, Chicago, Illinois. Pamphlet; 14 pages.

The Commissions Are Accused of Concealing the Fabulous Profits of the Power Utilities

WHEN a newspaper man starts to write about what he calls "high utility finance," he usually makes a good journalistic job of it. M. L. Ramsay, a Washington newspaper man, is no exception to this rule. He says in the September-October number of *"Plain Talk,"* (which is announced as the last issue of that sprightly periodical):

"Fabulous profits have been drawn out of the power companies, the commission's reports show, and ingeniously concealed. On a foundation of electric generating

plants and distributing systems that in some cases at least are marvels of engineering efficiency, expertly managed, the promoters and bankers have reared a superstructure of high finance that outmarvels the engineers. The bootleg racket and patent medicine enterprises, which have given us quite a number of our millionaires, are by comparison playground exercises suitable for children aged three to six. And the profits that sustain this superstructure are practically a sure thing, or were until the Trade Commission, by direction of a suspicious Senate, began spilling the beans.

"As long as consumers go on paying high rates for electricity, with the cost of generating and delivering it sliding downhill while the sales climb in dizzying fashion, the party will grow merrier and the 'melons' juicier. Meanwhile consumers who are not doing the dancing must not only pay the piper but, most of them, go without the electric ranges, water heaters, and farm equipment they could have if rates came down in proportion."

If one is interested in the bases for this belief he should read Mr. Ramsay's article on "How the Power Trust Robs the Consumer." If Mr. Ramsay's conclusions as to the overcharging for electricity were true, every state regulatory commission in the country ought to be scrapped for neglect of duty to the public; but the picture of swollen profits is so highly drawn that none except the most credulous could believe it, even if unacquainted with any facts as to the conduct of the business and its regulation.

No business could succeed on any such basis as Mr. Ramsay constructs. It would be an economic impossibility. No business has grown more rapidly in recent years than the electric business, and no business could grow at that pace unless its rates were reasonable, as compared with the value of its service.

It might help Mr. Ramsay if he would look up his bills for electricity, if he is a householder, in order to discover how much that service costs him a day. If we wagered that it were less than a dime, our chances of winning would be very great. And electric service is worth much more to most householders than a dime a day.

How the Power Trust Robs the Consumer. By M. L. Ramsay. *Plain Talk*, September-October. 1930.

Actual *Versus* Assumed Depreciation for Rate-Making Purposes

The proper treatment of accrued depreciation in valuation for rate-making purposes has been a controversial subject ever since valuations began. If depreciation is to be deducted, shall it be actual depreciation, theoretical or assumed depreciation?

In a recent address Lovick P. Miles, of Memphis, Tennessee, maintains that since depreciation must be considered in valuation it should be actual depreciation, if possible of ascertainment, rather than assumed depreciation. This view he supports by the citation of court authorities.

He believes that the following principles with reference to depreciation are recognized by the courts:

"(1) All physical properties, with the few exceptions, depreciate from the time they are put into public service and that depreciation continues until it becomes proper to retire them from public service on account of either physical exhaustion, inadequacy, or obsolescence.

"(2) The progress of depreciation varies according to the nature of the properties, the care exercised in their use, the amount expended currently for their maintenance, the growth of the territory served, the load carried by the plant, the development of the art, and other matters. It does not proceed uniformly. Where properly, currently maintained and repaired the progress is at first slow, becoming greater as years go by and at length reaching a maximum rate until finally little salvage value is left.

"(3) Annually patrons of a company are obligated to, and do theoretically contribute pro rata, in addition to the fair return upon the rate-making value, that part of the value of the physical properties which theoretically will be

used up ultimately in public service.

"In other words, each year the patrons of a company owe to the company a fair return upon the rate-making value of the property and in addition an amount representing the average depreciation of the property during the years of its service.

"(4) When in any year the patrons of a company have returned to the company an amount which it is assumed represents the pro rata exhaustion of the properties in the service of the then patrons neither they nor any subsequent patron is further concerned with the disposition of that contribution.

"(5) At the end of, we will say, the first year of service there has been no material depreciation in physical properties, nevertheless it is the theory of those creating the retirement or renewal and replacement reserve that at some later date depreciation will progress so rapidly as to ultimately require the full contribution made to the reserve in every year of its use, and it is proper that the total charge should be prorated throughout the years, regardless of the percentage of depreciation which may occur in any one year of property life.

"(6) If at any time it develops, according to the sound judgment of a company, which voluntarily creates a reserve, or a commission which orders the creation of a reserve, that accruals have been excessive then the accruals may be reduced, but the excess existing in the reserve cannot be used for the payment of return upon investment. Public Utility Comrs. *v.* New York Teleph. Co. (1926) 271 U. S. 23."

MR. MILES believes that the amount in the depreciation reserve does not in any sense belong to the public nor is it, he says, a trust fund for the benefit of the public.

In the judgment of the reviewer, the opinion, sometimes held that a depreciation fund belongs to the public or is held in trust for the public, proceeds upon an erroneous idea as to the nature and purpose of the fund. It is assumed that the money is advanced by the ratepayers to enable the company to make replacements; but this is not the case. The money paid annually for depreciation is paid in satisfaction of a past obligation. Theoretically so much property has been used up for the benefit of the ratepayers, and in their payment for depreciation the ratepayers merely discharge that obligation. Therefore, the money paid for depreciation belongs to the company as much as does the amount paid for the actual service.

If commissions, however, have the power to require the companies to hold a depreciation fund in readiness to make replacements so as to insure the continuity of the service, the companies, when required to do this, cannot return the money paid in for depreciation to the stockholders, although the money belongs to the company. In that case, therefore, the money in the depreciation fund is as much devoted to the service of the public as the physical property itself.

If the amount in the depreciation fund actually equals the accrued depreciation; that is to say, is sufficient to pay for replacements, there has been no impairment of the company's capital. If the money paid in for depreciation has been reinvested in the property, the same thing would be true.

—D. L.

RELATION OF DEPRECIATION OR RETIREMENT RESERVE TO VALUE. An address by Lovick P. Miles before the Section of Public Utility Law of the American Bar Association at Chicago, August 18, 1930.

Are the Commissions Handicapped by a Lack of Technical Knowledge?

THE problem of regulation is not merely one of good business judgment and legal knowledge, but is largely technical. That, at least, is the opinion of John W. Burke, consulting engineer of New York city, who naturally views the problem from his professional standpoint. Mr. Burke does not believe that commission regulation has broken down. In a recent article he says:

"It has been charged that regulation of public utilities by commission has failed.

As well might we say that it has not been tried. From the recent report of the New York special legislative committee and from other evidence the public begins to realize that the problem of regulation is not merely one of good business judgment and legal knowledge, but is largely technical. This latter character has not been recognized sufficiently, and as a natural consequence only a small proportion of the commissioners were appointed for their technical training, and the commissions generally have not been clothed with the authority, or provided with the necessary funds, to procure an adequate engineering staff.

"In many of the states it has been customary to select the commissioners from men prominent in public life. They are thus likely to possess tact, patience, and knowledge of human nature, all indispensable qualifications, which, however, may be found in others who in addition are equipped by special training to cope more effectively with questions of valuation and rate making. It would be a long step forward if the commission in its entirety had not only a good knowledge of law, but also of economics, of engineering, and of finance; and if each of its members were proficient in three, or at least two, of these subjects. In an efficient regulatory body, quality also extends to the staff. It is small but select.

"By far the most valuable work of a trained commission and staff would be to reassure the public. Prompt, open, and clear decisions by a commission of eminent attainments would soon dispel all public doubt and suspicion. Another and hardly less important result would be that such a commission automatically would find itself in harmony with the law of the land on valuation. The dangerous discontent with many of the court decisions would cease when people discovered that there was no conflict between court and commission.

"As might be expected, the Supreme Court, ever eminent in ability and experience, has developed and stated the clearest principles of valuation. These are in best accord with the views of experienced engineers and students of the subject. Of late we sometimes hear it suggested that the problem is economic rather than legal, and that, therefore, it is more reasonable to expect its proper solution by the commissions than by the courts. It is true that the commissions should conclude the matter and not leave it to the courts. But to accomplish this it will be necessary for some of the commissions to conform to sounder principles of valuation."

UTILITY VALUATION DEMANDS LOGICAL TREATMENT. By John W. Burke. *"Electric Railway Journal."* September 1930.

Other Articles Worth Reading

BEFORE GOING TO THE COMMISSION. By Homer H. Shannon. *The Traffic World;* pages 565–566. September 6, 1930.

This article outlines the paths to be traveled in the search for new rates, or a change in old ones before the Interstate Commerce Commission.

BILL COLLECTIONS AND PUBLIC RELATIONS. *Telephony;* pages 26 and 30. September 6, 1930.

EMPLOYEE-CUSTOMER RELATIONS COURSE READY. *American Gas Association Monthly;* pages 401 and 424. September, 1930.

This article announces a new course in employee-customer relations. It is believed to be the first of its kind and offers an opportunity to improve public relations at a nominal cost.

HOW THE POWER TRUST ROBS THE CONSUMER. By M. L. Ramsay. *Plain Talk;* September-October number, 1930.

MUNICIPAL ELECTRIC PLANTS: THEIR PAST, PRESENT, AND FUTURE. By Frederick L. Bird. *The American City;* pages 137, 138. September, 1930.

REVOLT IN CONNECTICUT. By Allen B. MacMurphy. *The Nation;* pages 263–265. September 10, 1930.

An article that deals with the activities, past and present, of a small group of men in the state of Connecticut to divorce the public utilities companies from Connecticut politics by sweeping J. Henry Roraback, chairman of the National Committee, alleged political dictator of Connecticut, and president of the Connecticut Light & Power Company, from his political stronghold.

RAILROAD CONSOLIDATION; WHAT OF IT? By William Z. Ripley. *Review of Reviews;* October, 1930.

THE ABC OF RAIL HOLDING COMPANIES. By Oliver Wesson. *The Nation's Business;* pages 15–17 and 195. October, 1930.

THE POWER TRUST GOES INTERNATIONAL. By M. L. Ramsay. *The New Republic;* pages 67–69. September 3, 1930.

THE UNFAIR COMPETITION OF THE PUBLIC UTILITIES. *Gas Age-Record;* pages 304–305 and 308–309. August 30, 1930.

As Seen from the Side-lines

THE two principal railway systems of New England are operated by the public.

* *

THAT is, the Bay State Street Railway (now called the Eastern Massachusetts), and which happens to be the longest single system in the world, is managed by a board of trustees appointed by the governor of the commonwealth.

* *

ALSO, the Boston Elevated, which operates in the largest metropolitan area of all New England, is directed, managed, and operated by a board of trustees similarly designated by the chief executive of the state.

* *

OTHERWISE, there are differences between them. The Bay State earns what it can get. The Elevated stockholders are guaranteed a dividend of 6 per cent. It amounts, in effect, to a lease. The state says, "I'll take your property and operate it, and for the privilege of using it I shall pay you a rentol of 6 per cent; also, I promise that if I ever give the property back to you it shall be in as good condition at least as when I took it from you."

* *

A TEN-CENT fare exists in Boston, with 5 cents on the short runs or feeder lines. Perhaps the general average is 8 cents. The city of Boston builds the tunnels and subways, and the Elevated pays to it a rental for them. If the income of the railway is insufficient to meet the cost of operation, including the fixed charges and the 6 per cent guarantee to the stockholders, the deficit is made up by the cities and towns in which the system exists.

* *

IN that state of affairs, automatically the fare goes up. If there is any surplus the amount goes back to the cities and towns in the proportion in which they had contributed to liquidate that deficit. From 5 and 6 cents, the fares eventually hit 10 cents, the loans made by the cities and towns have never been fully redeemed and there seems to be no likelihood that the fare ever will fall below that maximum.

* *

IT was about thirteen years ago that the state of Massachusetts enacted into law this policy of public operation. For divers and sundry reasons, the Elevated had approached a condition of bankruptcy. Service was thoroughly disordered. Crowds of would-be passengers waited in the slush-filled streets of a winter evening for the cars that did not come, or which, when they finally did come, were jammed to the guards. A condition of civil revolution inflamed the public mind.

* *

THE Elevated had become the object of its greatest cardinal mistake. In the days when Tom Johnson of Cleveland was contending for a permanent 3-cent fare, and when it seemed that fares everywhere would be reduced by the improvements in the art of transportation, the Elevated forced through the legislature a 5-cent fare law, for fifty years, if memory serves me as to the time. There was talk of official corruption and bribery. From that day on the Elevated paid the penalty of the loss of public confidence. It was unable to resist legislative attacks causing it to extend its service at great loss to itself. Subway after subway was piled into the system, all the cost of them eventually coming out of the income of the Elevated.

* *

ANYWAY, even if these premises happen to be untrue, which they aren't, the Elevated was bordering on bankruptcy. The people held the 5-cent-fare law under its nose and something needed to

be done to save it from entire ruin. The people were unwilling to pay higher fares to the Elevated operators. Consequently the scheme of the lease, with its guaranteed dividend, and public operation was hit upon.

* *

PRESUMABLY, the public operation law was for ten years. But a closer reading of the law indicated beyond peradventure that the state had held to itself alone the right to relinquish the contract for public operation with the Elevated. So it has run along past the 10-year period and the discussions of "what should be done now" have proved a source of almost endless debate in the legislature, on the public rostrum, and in the press.

* *

THE subject matter will go onto the ballot at the state elections to be held there in November. Three questions will appear. They are, in brief: *First,* shall the Elevated be returned to its private owners? *Secondly,* shall the present system of public operation be retained? *Thirdly,* shall the state acquire the system under public ownership?

* *

MASSACHUSETTS has a public-opinion law, so-called. It enables the people to express their opinion on the given matter before them. It does not have the binding effect of an enacted law. It is an instruction to the legislators from the districts in which the referendum is taken, (in this case the cities and towns served by the Elevated). It is a potent, effective thing, however, because the legislators almost invariably adhere to the expressed conviction of their constituents. A weakness in the referendum on the subject of the Elevated is, perhaps, in the fact that the legislators so to be instructed constitute a minority of the Massachusetts house of representatives. Any law to be enacted by the legislature would require the assent of legislators who come from the districts outside the metropolitan area. Most of them are ruralites, whose concern in the problem of Boston's transportation is somewhat negligible.

BUT it can be said that the old idea of democracy prevails in Massachusetts and the result of the referendum balloting will make an impressive dent in the affairs of the state.

* *

THE public-operation law now in existence contemplated the possibility of the purchase of the Elevated by the state, as it fixed the price per share that would be paid in such an event. The cost to the state would be in excess of one hundred millions of dollars. Progressives say that the immediate effect would be the saving of $2,000,000 in capital charges by the issuance of 4 per cent state bonds in the place of the 6 per cent now paid the shareholders. Conservatives reply, "O, yes; but would not the inefficiency of public operation under complete public ownership more than offset that saving as the years roll by?"

* *

THERE you get into the field of abstract discussion of the merits of public and of private ownership. It is the question which is as old as the government itself and which will never be settled to the satisfaction of all while government lasts.

* *

CONCEDEDLY, the service is vastly improved. It could not have been worse. Many millions of dollars have been poured into improving the service through the medium of the 10-cent fare. Progressives say, "This vast sum should not go back to the private owners. We did them a great favor by establishing a condition which guaranteed their income and enabled the quoted value of their stock to rise from $30 to $80 a share or thereabouts." The conservatives reply, "But honest private operation would sustain the service and possibly make for even better improvements and reduced fares."

* *

THE outcome of the referendum is doubtful.

John T. Lambert

OUT OF THE MAIL BAG

Is the Interstate Commerce Commission Responsible for the Existing Railroad Pension Problem?

IN Mr. Herbert Corey's interesting article "Who Will Pay the Utility Employee's Pension?" appearing in the September 18th issue of the PUBLIC UTILITIES FORTNIGHTLY, there are three points which greatly impressed me. These are:

(1) Pat Dugan, the retired railroad employee, is sure his pension will be paid as long as he lives, although actually this is not a certainty.

(2) The only way by which Pat's pension can really be guaranteed is for proper reserves to be set aside for that specific purpose.

(3) The villainous Interstate Commerce Commission has devised certain rules and regulations designed to prevent the railroads from doing what they want to do; namely to set aside proper reserves to provide for pensions, and thereby have deliberately endangered Pat's old age income.

We can all agree that it is absolutely wrong to have allowed Pat to get the impression that his pension was a "sure thing" if it isn't. There can be no question but that the expectancy of this pension was one of the factors that persuaded Pat to take a job with the railroad some thirty or forty years ago, and that this same expectancy of a pension kept him on the job when he could have gotten better wages working at an ammunition factory during the war. Pat has, therefore, made actual contributions towards the cost of this pension and has a moral if not a legal right to it.

Mr. Corey's second point—that pensions are really guaranteed only if adequate reserves are set aside to provide them—is an axiom which we may safely consider to have been proved by past experience and which can readily be demonstrated by simple mathematics.

Mr. Corey's third point, to the effect that it is the rulings of the Interstate Commerce Commission which have prevented the railroads from setting aside proper reserves, is, I believe, subject to argument.

MR. Corey mentions that one large railroad system has an accrued liability of $55,000,000 on account of employees already retired. This is only part of the story. This same system has an additional accrued liability of over $100,000,000 on account of employees who have not yet been retired, but who, by the service they have already rendered, have earned a pension which they will start to receive some time in the future.

This makes a total liability because of services already rendered amounting to $155,000,000 in addition to the current pension liability to be paid each year for the service rendered during that year. This $155,000,000 represents 7.6 per cent of the total assets of this railroad, and 29.9 per cent of it is surplus.

It is unfair to expect any management suddenly to acknowledge such a shrinkage in surplus; it would impair the credit of even the strongest railroad. Of course, some day something will have to be done about it, but why should the present management who did not inaugurate the existing pension system be the goats? Only part of this tremendous liability was created during the régime of the present management. Why should they accept the entire burden?

It is true that the $6,657,000 that this system paid out in pensions during 1929 amounted to 1.92 per cent of their total payroll, 5.01 per cent of their net rail operating income, 6.58 per cent of their net income, and 58 cents per share of their common stock, and it is also true that while a prosperous year like 1929 might be able to stand such an expense, this expense becomes intolerable in a poor year like 1930.

When stockholders realize that pensions amount to more than 14 per cent of the total dividends being paid, and that these pension payments are steadily increasing, there is going to be an awful kick and a lot of explaining will have to be done by the managements who rely upon these stockholders for their jobs.

WITHOUT claiming for a moment that the rulings of the Interstate Commerce Commission in regard to pensions are the

wisest rulings that could be adopted, are we not reasonably safe in saying that the railroads would not set up reserves regardless of the attitude of the Interstate Commerce Commission, and that, therefore, the existing ruling of the Interstate Commerce Commission is not in any way the cause of the total lack of reserves in connection with railroad pension plans?

Is it not true that the railroads have tried to use the idea of pension reserves for a noncontractual pension plan as a means of building up their surpluses without paying the proper taxes on the profits that they have earned, and that the ruling of the Interstate Commerce Commission is designed to prevent this avoidance of tax?

So far we seem to be leaving the railroads in the unfortunate position where they cannot admit their existing pension liabilities, and at the same time cannot stand the steadily increasing cost of existing plans.

What is the solution?

WHY could not the railroads commencing with 1931 put up proper reserves for the pensions earned by service rendered during 1931? These pensions earned to be guaranteed to the employees on a contractual basis, provided that the employees fulfil their part. The employees' part would include rendering the railroad continuous service. Interruption of work by a strike would constitute a break in the continuity of service, and the employee would thereby forfeit all pension rights earned up to that date. The reserves released by a strike would continue to be in the pension fund, but would relieve the railroad from the necessity of making further contributions towards pensions until this fund was absorbed by pensions earned by service subsequent to the strike.

This would still leave the problem of the pensions that had been earned up to 1931. While the present ruling of the Interstate Commerce Commission would make payments under these pensions that had been earned prior to the adoption of the contractual plan a charge against profit and loss, it is probable that the Interstate Commerce Commission would be willing to amend their existing ruling so as to permit the payments of pensions for this past service to be paid as at present, and as at present charge them to current operating expense.

The immediate result of such a method would be to increase the pension expense to the railroads, but this increase in expense would decrease steadily for the next ten or twenty years, and from then on this method will effect a real saving to the railroads and future Pat Dugans would be justified in feeling that their pensions were a "sure thing."

—GRAHAM FRENCH
Sun Life Assurance Company of Canada, Philadelphia, Pa.

Where the Pension Problem Is Leading the Railroads

THE article in the September 18th issue entitled, "Who Will Pay the Utility Employees' Pension?" is most timely.

While this article is in no way technical, it nevertheless is valuable in that the author has collected in readable fashion certain salient facts and claims regarding industrial pensions and their particular application to the regulatory measures that are being imposed upon public utilities to a prohibitive degree.

I personally spent a year in an exhaustive investigation of industrial pension systems. In fact I can recognize in Mr. Corey's article information obtained from a review of pensions that I wrote myself.

Mr. Corey's article raises certain points in my mind, *viz.:*

(1) The assurance felt by retired employees that their pensions are secure;

(2) The ruling of the Interstate Commerce Commission prevents remedial action by the public utilities through its application of taxes and prohibitory regulation;

(3) The lack of definite and detailed explanation of the whys and wherefores of the Interstate Commerce Commission ruling;

(4) The question of taxes and the building of reserves for pensions;

(5) The attitude of union labor and its possible effect on or influence over the Interstate Commerce Commission;

(6) The question of state pensions.

It would seem that a further authoritative exposition of the above points would be of interest to your readers. Mr. Corey has sketched in his interesting way the general situation; there is much more to be said, however, on this, one of the important factors in utility management and financial adjustment. The curse of previous regulation by the Interstate Commerce Commission cannot be better exemplified than by a real exposition of its action in preventing, as it does, the proper funding and stabilization of pension systems, particularly when we realize their inherent value to industry.

There is no finer way of obtaining loyal service, or of continuity of service, with the consequent lack of labor turnover, gain in efficiency, and monetary saving, than by the proper installation of a pension system.

There should be no question of altruism. The pension system is basically a matter of good business management, no more, no less, no matter how it may be camouflaged by high sounding phrases by the management, published for the benefit of employees.

Any one really conversant with the subject knows that a pension system properly installed is good business and a saver of money. "Properly installed," however, implies certain important factors which Mr. Corey has but briefly touched upon.

ACTUAL investigation has shown that approximately 99 per cent of pension systems in the United States are insolvent. In the ultimate, this must be changed if the systems are to remain in effect and the firms are not to go into the hands of receivers. In one case (mentioned by Mr. Corey though not by name) were the pension liability to be set forth on the balance sheet, the stock of that concern would drop 25 points or more on the big board and its credit would be materially impaired.

Furthermore, if the amount of this liability were to be expressed on the balance sheet it would stagger the railroads of this country.

This condition can be remedied but not until the Interstate Commerce Commission removes the restrictions it imposes.

One fact is a certainty; if the railroads and the public utilities in general are to continue to pay pensions and also continue in business, proper funding methods must be permitted by the Interstate Commerce Commission. It would be interesting to have an explanation from the Interstate Commerce Commission as to the reasons for its attitude. I imagine a detailed exposition of this would prove interesting reading, particularly if it expanded on the interest of organized labor in the ruling and what organized labor's hand had to do with the ruling, if anything. I would be very glad to have the light of day let in upon this situation.

Private industry can always correct the errors due to lack of foresight in the establishment of their pension systems. The carriers, harassed as they are by such regulatory restrictions as are placed upon them by the Interstate Commerce Commission, cannot do this and in consequence they are slowly but steadily going to the financial wall or toward the enforced abandonment of the pension upon which rests so much of the satisfaction and loyalty of their present employees.

IN the matter of taxes, there is much to be said. Taxes may, and doubtless do, enter into the action of the Interstate Commerce Commission. There should, however, be a way by which the tax hounds could be made content, the utilities pay their proper obligations, and at the same time authority given for the proper funding of pensions and the building of adequate reserves. Without such action there can be only a delay until the day of reckoning.

The attitude of union labor, the bearing of strikes in general, and the position taken by the utilities in these respects might very properly be gone into and laid before your readers. They are matters of serious import in the problem as a whole, whether it be considered from the standpoint of pure business value, social importance, or both.

State pensions, a subject in itself, but having a direct bearing, is pertinent and might be gone into also.

I make no suggestions as to a cure. Cures, nevertheless, there are and it is my thought, now that the subject is opened in your columns, that a solution might also be offered.

—H. B. HAYDEN,
Tradesmen's National Bank & Trust Co., Philadelphia.

The Rate Controversy Between Minneapolis and the Minneapolis Gas Light Company

OUR attention has just been called to a mis-statement appearing in the October 2, 1930, issue of PUBLIC UTILITIES FORTNIGHTLY. The statement in question appears on page 437 as part of a news item on the Minneapolis franchise, and is entitled "New Gas Rate Franchise Settles Rate Controversy" and is the second paragraph thereof.

The paragraph in question reads as follows:

"The company has agreed to a valuation of $14,600,000 for rate-making purposes in place of the $19,000,000 insisted upon during proceedings in the courts."

The facts in the matter are that the company and the city never did agree on a valuation and the new franchise and the rate regulation provision of it were negotiated for the purpose of avoiding long and protracted litigation to determine the true valuation of the company's property. The company at no time agreed to any valuation lower than that claimed in its appraisal made by independent engineers and which was in excess of $23,000,000.

—F. W. SEYMOUR,
President, Minneapolis Gas Light Company.

Four Misconceptions of Commission Regulation

Common fallacies that are entertained by the Man-on-the-Street toward the functions, methods, and purposes of the state regulatory bodies—popular misconceptions that handicap the commissions—will be specified by COMMISSIONER HYLEN H. COREY *of Oregon in the coming issue of this magazine; out November 13th.*

The March of Events

Water Power Permits on Non-navigable Streams

A FLURRY of excitement has been aroused by the recent opinion of Attorney General Mitchell holding that a minor license, without the requirements for financial supervision laid down in the Federal Water Power Act, could be granted to the Appalachian Electric Power Company for the building of an 80,000-horsepower hydroplant on the New river, near Radford, Virginia. The decision was predicated on a decision of the old commission that the New river is non-navigable in fact.

Many persons have taken issue with this view. It is contended that the river is navigable in law if not in fact, and it has been pointed out that the government has spent large sums to improve navigation on it and that it has assumed jurisdiction over its bridges.

The ruling by the Attorney General, if followed by the commission, will permit the construction of scores of plants over the country, including the huge development at Conowingo, Maryland, and others in Pennsylvania, Georgia, and South Carolina, it is said, because the waters involved are not in fact navigable.

The Federal Power Commission has explained that vigorous protests by the authorities of various states against usurpation of jurisdiction by the Federal Power Commission to the detriment of local interest were the principal factors which brought about the ruling.

Alabama

Gas War at Mobile

BATTLE lines have been forming at Mobile, with the Mobile Gas Company and the Southern Natural Gas Company drawn up along one intrenchment, and the Turner-Lewis group occupying the other side of the battle field. Mobile city officials occupy a third sector, attempting to get the lowest rates possible for the city.

The Southern Natural Gas Company piped gas from the Louisiana fields for delivery to the Mobile Gas Company, which is to distribute the product in Mobile. The Mobile Gas Company filed rates with the commission.

Representatives of the Turner-Lewis group announced their intention to bring natural gas into Mobile, and filed lower rate schedules. They contended that the Mobile Gas Company did not have a valid franchise for service in the city. On the other hand, the Mobile city commission granted a franchise to the Lewis-Turner interests. The granting of this franchise has been attacked by the Southern Natural as "arbitrary" and an effort to usurp the jurisdiction of the public service commission in the matter of public utility rates.

Proceedings were started by the various parties in state and Federal courts, and the rate schedules proposed by the opposing utilities have been before the commission for consideration.

California

To Vote on 5-Cent Fare and Street Car Franchise

A PERMANENT 5-cent fare on the Municipal Railway in San Francisco will be voted on as a charter amendment on November 4th. The board of supervisors refused to fix the rate of fare permanently at 5 cents, but six supervisors, by signing an initiative petition, placed the question on the ballot as an initiative ordinance.

The voters will also pass upon a proposed charter amendment to give the Market Street Railway Company a new 25-year franchise. This has stirred up strong opposition. According to the San Francisco *Chronicle:*

"The city's transit system is now composed

of two lame ducks. It might be possible to put the two together and make of them one duck with two fairly good legs. How could this be done if the Market Street Railway were put in an independent position by a 25-year franchise?

"For the Municipal Railway is now the lamer duck of the two. It cannot make ends meet on a 5-cent fare while the Market Street Railway does at present. The city lines have an operating cost of 31.7 cents a car mile while the Market Street Railway runs its cars for 28.4 cents a mile. And while the Municipal Railway is assumed to have the city behind it this is no longer true because the people have lost financial faith in the enterprise and have refused every recent proposal for extension."

The 5-cent fare proposal for the Municipal Railway has also met opposition. One of the latest opponents is the Downtown Association, which has passed a resolution that it join with the San Francisco Real Estate Board and the Chamber of Commerce in opposing adoption of the 5-cent fare charter amendment. Any legislation fixing a permanent 5-cent fare, it is said, would result in throwing a burden upon the taxpayers.

Florida

Voters May Pass on Electric Utility Matters

THE city administration of Fort Meyers, according to the Fort Meyers *News*, plans to submit three proposals to the voters at a referendum election. One will be to grant a new franchise to the Florida Power & Light Company; the second will provide for litigation to reduce the rates under the present franchise; and the third will be for the construction and operation of a municipal electric plant.

This plan was revealed by Mayor Josiah Fitch following a conference between city officials and representatives of the power company. One of the results of the conference, it is reported, was the consent by Walter N. Munroe, district manager of the company, to have written into the contract a provision giving the city the right to acquire the company's property by purchase any time during the life of the franchise. The *News*, in reporting the discussion of rate matters, adds:

"The argument involved procedure with reference to initiating changes in the rate structure. The mayor contended that the council should submit a schedule of rates for the company either to put into effect or contest in court on the ground that the charges were unreasonable. Mr. Munroe argued that the company should draw up the rates for heating, lighting, and various classes of service and that the council should regulate the resulting schedule so that the aggregate return would not be excessive.

"If the rates proposed were found to yield a greater income than the council thought the company was entitled to, he explained, the council could direct the company to revise the rates downward and it would be up to the company to make changes to bring the desired result or defend the schedule as proper. Mayor Fitch, however, contended that the charter required the council to retain the rate-fixing power and insisted that the word 'fix' go into the franchise. After several efforts to define the practical meaning of the terms 'fix' and 'regulate,' the matter went over to the next conference."

Georgia

"Equal Rate" Probe Awaits Court Ruling

ACTION by the commission with reference to the electric rate war in Crisp county may be deferred pending a decision by the Georgia supreme court on an injunction proceeding brought by the Georgia Power Company, it has been indicated by Chairman James A. Perry of the commission, we are informed by the Atlanta *Journal*.

Judge G. H. Howard, in the Fulton superior court, had overruled a demurrer filed by the commission to the power company's injunction petition, and directed the commission to hold a hearing to determine whether the recent 50 per cent cut in rates in Crisp county by the power company was "voluntary," and whether it constituted "unfair discrimination." The *Journal* continues with the following statement:

"The Commission some weeks ago issued a rule nisi directing the Georgia Power Company to show cause why its electric rates all over the state should not be reduced 50 per

cent, after the company had announced a 50 per cent cut in Crisp county, where a publicly owned hydroelectric plant had been put into operation August 1st. The new plant established rates from 10 to 15 per cent lower than the company's original schedule.

"The power company immediately obtained a temporary restraining order preventing the commission from proceeding on the rule nisi, claiming that the reduction in rates was necessary to meet competition and protect its investment, and that there was no 'unfair discrimination.'

"At the hearing before Judge Howard, the commission insisted by demurrer that the injunction proceedings were premature, in that the commission had not changed the statewide rates, and that the company had ample remedy at law if the rates were reduced after proper hearing.

"Judge Howard overruled the demurrer and enjoined the commission from proceeding otherwise than by a hearing to determine whether the company's rate reduction was 'voluntary' and constituted 'unfair discrimination.'"

Illinois

Federal Control of Busses Advocated

THE public benefits which would result from proposed legislation to place all bus lines under the control of the Interstate Commerce Commission, says the Chicago *Tribune*, were discussed at the fourth annual convention of the National Association of Motor Bus Operators at Chicago. Representatives of one hundred bus lines, which carry two billion passengers over 782,000 miles of highways were in attendance.

The *Tribune* in reporting the convention proceedings, goes on to say:

"A. M. Hill, president of the association, declared that regulation by the commission will aid the companies in their efforts to remove objectionable features of bus travel. This can be done through the elimination of fly-by-night competition, he said.

"Bus travel at first met with some objection because of hard rubber tires and motor gases, Mr. Hill said. The better companies have replaced such busses until there are now busses which offer travelers many luxuries, he asserted."

Massachusetts

More Authority Proposed by Utility Commission

THE state department of public utilities would have general supervision over associations or trusts which own or hold capital stock of gas or electric, or gas and electric, companies, under a bill which has been filed with the clerk of the house on petition of Wycliffe C. Marshall, who appeared as counsel for various consumers at recent hearings on the Edison electric rates in Boston.

The bill would join the holding companies with the lighting companies as respondents in rate proceedings before the department, which would be given greater authority over the contracts or other agreements between the holding companies and those engaged directly in the manufacture and sale of gas and electricity.

Minnesota

Dial Phones for St. Paul

ST. PAUL'S telephone system will be changed from the manual to the dial system if the purchase of the Tri-State Telephone & Telegraph Company by the Northwestern Bell Telephone Company is approved by the commission, officials of the Bell Company have announced, according to the St. Paul *Pioneer-Press*, which adds:

"In event the purchase is approved approximately $6,000,000 will be spent in downtown St. Paul by the Bell Company in a reorganization and construction program. Of this total, $1,500,000 to $1,750,000 would be for erection of a new building while from

$4,250,000 to $4,500,000 would be spent in making the change to the dial system."

City Drops Electric Rate Investigation

THE city council, says the Minneapolis *Tribune*, has approved the action of its special committee on gas and electric rates in refusing to inaugurate an investigation of the rates and valuation of the Minneapolis General Electric Company, and rejected a minority report demanding such an investigation. City Attorney Neil M. Cronin asked that it be put into the record that the action was taken without the advice of the city attorney.

At an earlier meeting of the council committee on gas and electric rates, the proposal to employ an expert had been turned down, and instead the city engineer had been directed to secure data on electric rates in other cities as a basis of comparison. The majority of the committee, says the *Tribune*, was of the opinion that there was no public demand for an investigation of rates.

Patrons to Pay for Valuation

THE Tri-State Telephone and Telegraph Company has made it plain that if it is compelled to pay for a physical valuation of its property in St. Paul as proposed in a bill drafted for the legislature, the burden will be passed on to the city telephone users. Whatever the company pays will have to be reflected in rates.

New Hampshire

Written Interrogatories to Save Time in Utility Probe

THE investigation by the New Hampshire commission into the affairs of the New Hampshire Gas & Electric Company, the Derry Electric Company, and the New England Gas & Electric Association on October 3rd was adjourned to October 27th in order to permit state counsel to prepare written questions addressed to the companies, as a means of shortening the proceeding.

The investigation so far has brought out testimony that funds of the New Hampshire utilities are deposited in New Hampshire banks in the name of the New England Gas & Electric Association, their common stockholder; that open account obligations of the utilities to their common stockholders are subject to interest charges which take the place of common stock dividends; and that some employees of the New Hampshire utilities are paid by the New England Gas & Electric Association and the charges are pro rated against the utilities operating in New Hampshire.

It was shown that the Derry Electric Company had been purchased at a foreclosure sale after its bonds had been repudiated, and that the New Hampshire Gas & Electric Company, its purchaser, was charged with the appraisal price rather than the auction bid price, funds for the purchase having been advanced by the New England Gas & Electric Association.

The question has arisen whether this sale must be approved by the commission. The opinion had been offered that no authority of the commission was necessary because the mortgage was executed before the New Hampshire law was put into effect, but examination of the original mortgage showed that it was not reported until June 10, 1911, while the statute was passed on May 1, 1911, and became effective under the enacting clause on May 15, 1911.

The commission has elicited considerable other information in regard to discounts on purchase of supplies, advantages from joint tax filings, payment of wages in stock under an optional employees' stock purchase plan, and results of the business of selling appliances.

New Jersey

Lackawanna Commuters See Higher Fare

RAILROAD electrification has been given by the Delaware, Lackawanna and Western Railroad as one of the reasons for a contemplated increase in fares between New York and the Oranges and Montclair, New Jersey. Commutation rates, according to newspaper reports, will be increased approximately 3½ cents a trip.

Protests by North Jersey towns and a movement to organize a permanent com-

muters' protective association followed the fare proposal. Such a commuters' group as was formed in New York state to combat the New York, New Haven & Hartford Railroad fare raise, or the Association of Long Island Commuters, Incorporated, with its 10,000 members, says the Newark *News*, is what those behind New Jersey protest meetings have in mind. The *News* adds:

"However, official opinion is, in the main, not strongly aroused over the situation. It is largely in the smaller communities that most opposition to the Lackawanna move has been expressed.

"Any who attempt to fight the increase will encounter a problem not usually confronting commuters in such cases. That is, the public utilities commission and the Interstate Commerce Commission both have jurisdiction, whereas commutation rate cases usually can be fought out before the state body alone."

The company has stated, we are informed by the Newark *Star-Eagle*, that there would be an increase of $650,000 in operation and maintenance costs of its Morris and Essex and Montclair branches after electrification is completed, and a loss of more than $500,000 on passenger business in the commutation zone, aggregating a total of $1,150,000.

Gas-Electric Trolley Car

A TROLLEY car which carries its own power plant, eliminating the necessity of overhead wires is proposed for use on one of the lines of the Public Service Co-ordinated Transport. The Newark *News* states that this innovation has been explained as exemplifying the old maximum of necessity being the mother of invention. The overhead structure on the line in question is in need of replacement. This would mean thousands of dollars outlay. Rather than make that expenditure, company officials have decided to experiment with a gas-electric trolley car.

New York

New York Electric Rates

THE major part of the hearings before the commission on proposed new rate schedules of the New York electric utilities had been completed early in October. The proposed schedules amount to a reduction of revenue although rates of part of the consumers would be increased. Members of the commission have intimated that they will insist upon simple and easily understandable schedules of rates, which will automatically, so far as possible, place every consumer under that part of the schedule which will be most advantageous to him. The *Wall Street Journal*, in summarizing the electric rate case, says in part:

"Although a fixed customer charge always has been violently opposed in New York by the city and by the commission, the companies have submitted figures which show that the cost of the companies incurred directly for service to customers, together with carrying charges at 6 per cent per annum on specified investments made directly to serve customers, is in excess of $12 per meter per annum, whereas the proposed fixed customer charge is only $7.20 per meter per annum.

"The fairness of a fixed customer charge in the proposed new rate schedule thus is apparently proven from that angle. The fact remains, however, and is stressed by the opposition continually, that despite the apparently fair basis for such a charge, its institution, together with an energy charge of 5 cents per kilowatt hour will result in increasing the cost of electricity to 58 per cent of the consumers of electricity of New York.

"The companies, of course, maintain that the increase in the bill of the small consumer is fair, in that it places upon him only a portion of the expenses which the companies must bear to service and maintain his meter. The companies' witnesses also point out on all occasions the promotional feature of the proposed rates, namely, that as a customer uses more electricity his bill is reduced proportionately.

"The second phase of the situation with which the commission obviously is not satisfied is the maintenance of two distinct service classifications, one for residential and the other for commercial consumers. That angle of the proposed schedules does not meet the commission's desire for simplicity of the rate structure."

The company has stated that it can make an additional large cut in electric rates if the practice of submetering current to tenants is abolished so that the company can serve all of the tenants of apartment and office buildings directly.

Control of Taxicabs Advised

THE Commission on Taxicabs, appointed by the mayor of New York, has recommended that the New York city taxicab industry be declared a public utility and made an integral part of the city's transit system.

The commission urges that the industry be placed under the supervision of a Taxicab Control Bureau of the Board of Transportation and that a single rate of fare be established for all taxicabs in the city. For the present, the prevailing rate of 15 cents for the first quarter-mile and 5 cents for each additional quarter is recommended.

One-Man Cars Urged

RECEIVERS of the New York State Railways have submitted to the Federal court a voluminous report covering valuation, cost of operation, income returns, and indebtedness since the company passed receivership. Included in the report are recommendations that 220 trolley cars in operation on Rochester lines be converted into one-man cars, that upholstered seats be substituted for cane seats in all cars, and that electrically-operated fare-recording boxes be installed in order that a complete and correct check may be made on the number of passengers carried.

Public Should Save Railway

"LEAVE your automobiles at home for one day and ride the trolleys," is the appeal by receivers of the street railway company to citizens of Schenectady. Otherwise, says the Albany *News & Journal*, discontinuance of operation is an imminent possibility.

Ohio

Columbus Gas Rates Carried before Commission

THE Columbus Gas & Fuel Company, which has been trying unsuccessfully for several years to obtain higher rates, has come before the public service commission for a hearing on the fairness of the 48-cent rate now in effect.

Initial steps in the controversy were taken over six years ago after the passage of a 40-cent rate ordinance. A court restrained the gas companies from shutting off service in Columbus. Then the matter was carried to the United States district court, where the 40-cent rate was attacked as confiscatory. There the rate was declared to be nonconfiscatory.

Then on an increased rate base the court found the 40-cent rate still to be nonconfiscatory but named a 48-cent figure with a 75-cent minimum charge as a fair rate. The company was ordered to retain from impounded moneys the difference between the 40 and 48-cent rates for return to the public.

The United States circuit court stayed the district court order with instructions that the moneys be held until the appeal could be heard. In the meantime, the 5-year period for the 48-cent rate had expired and in 1929 negotiations were opened which resulted in the passage of a 65-60-55-cent rate ordinance which the council later repealed after the gas company had signed acceptance papers. The companies claimed a valid contract with the city of Columbus but the court ruled against them.

Meanwhile the council passed a 53-cent ordinance which was defeated at the primaries in 1929. A 48-cent rate ordinance was approved by the council immediately thereafter and was approved in the November election. From this ordinance the gas companies first appealed to the commission, which held that it should not act pending a decision in the circuit court of appeals. The gas companies asked the commission to establish a temporary rate but this was denied. The supreme court refused to compel action by the commission and now the utilities are back before the commission.

Pennsylvania

Scranton Electric Rates Lower

WHAT is described by the Scranton *Times* as the largest percentage reduction ever recorded in Pennsylvania by an electric company, has been announced by the Scranton Electric Company. New rate schedules, it is said, will result in an annual saving of over $750,000 to the more than 75,000 consumers of the company in the Lackawanna and Wyoming valleys. Over half of this reduction, which is more than 10 per cent of the company's gross revenue, goes to the domestic consumer. The *Times*, in reporting the rate reduction, explains:

"One of the most important features in connection with the new schedule of reduced rates is that beginning the first of November

there will be but one electric meter for all electricity going into one home. This is something that users of electricity have long looked forward to. The elimination of an extra meter means a reduction also in the cost of electricity, and is a tremendous benefit to the consumer over the present system of meter rates.

"All classes of electrical consumers share in the reduction. The domestic consumer, whose rates in the past have been the highest, gets the greatest benefit from the reduction.

"The first block of the residential lighting rate has been decreased from 9 cents to 8 cents per kilowatt hour, and, therefore, all customers taking service under this rate receive a decrease of approximately 10 per cent with the exception of those customers who only pay $1 per month as a minimum charge. Even these customers will participate in the reduction because they are allowed 12½ kilowatt hours for the dollar paid rather than 11 kilowatt hours as was the case under the old rate.

"Commercial lighting and power rates have also been reduced. The former have been brought more nearly in line with residential lighting rates.

"The company has also provided an entirely new method of charging for electric service for domestic customers. This new plan is optional to the existing reduced residential rating—the customer being given the privilege to choose whichever rate is more beneficial to him. The new plan provides for the payment of $1 per month for each residential customer and after this payment has been made all kilowatt hours used by the customer are charged for at the low rate of 5 cents per kilowatt hour. An example of the effect of this optional schedule is brought out by a comparison with the old residential lighting rate. A customer purchasing 50 kilowatt hours per month under the old residential rate would pay $4.50 for his service. Under the new optional rate this same customer would pay $3.50—a reduction of $1 per month in his bill. Further options are provided in the new schedule whereby a customer with a fully electrified home can, by paying a slightly increased customer charge, secure the energy at rates of 4 cents and less per kilowatt hour."

Wisconsin

Fare Rehearing Denied

A PETITION by the Milwaukee Electric Company to reopen the Milwaukee street car fare case has been denied by Judge A. C. Hoppmann in the Dane county circuit court. The utility sought to enter data on revenue for the last five months into the records of the case in which the court had denied its appeal from the order of the commission, entered last May, fixing a 10-cent cash fare, with $1 weekly passes, in connection with a zoning system.

Judge Hoppmann recommended that the company wait a year at least before appearing before the court or the state commission with another petition to reopen the case. The Milwaukee Wisconsin *News* says of the proceedings:

"The utility's move for reopening of the case was its first step in an attempt to have modified the fare and zoning order issued for Milwaukee by the railroad commission five months ago.

"John M. Niven, city attorney, represented Milwaukee at the hearing. He argued that the five months time over which the new data was gathered was not fair evidence because it was taken during the slack summer season and a period of depression."

The Latest Utility Rulings

CALIFORNIA COMMISSION: *Batchelder-Wilson Co. v. Southern California Gas Co.* (*Decision No. 22806, Case No. 2841.*) A gas company was directed to make reparation to a number of its consumers for excess payments. The commission decided that a tariff rule, providing that a gas consumer electing service under a different schedule may have his schedule changed after the next regular meter reading, must be observed; and that the utility has no right to substitute its judgment for that of the consumer.

CALIFORNIA COMMISSION: *Bayer Co. v. Los Angeles Gas & Electric Corp.* (*Decision No. 22807, Case No. 2840.*) In directing a utility to refund certain excess payments for gas service, Commissioner Carr ruled that the failure of utilities to comply with the rule requiring it to call consumers' attention to various optional schedules and changes may constitute a basis for a reparation award.

CALIFORNIA COMMISSION: *Re Natural Gas Corp.* (*Decision No. 22805, App. No. 16116.*)

A natural gas utility was authorized to exercise franchise rights for the sale of mixed vaporized butane, propane, and air in a number of northeastern California communities.

CALIFORNIA COMMISSION: *Re San Gabriel Valley Water Co. (Decision No. 22820, App. No. 16698.)* In authorizing the owners of a water utility service to transfer their property to another water company, the commission observed that its authorization applies to the transfer only of such title as the vendors might have and did not include property not owned at the time of the authorization.

COLORADO COMMISSION: *Re Denver & Rio Grande Western Railroad Co. (I. & S. No. 138, Decision No. 3031.)* A railroad company was given authority to discontinue its station agency at Greenland, Colorado, because of inadequate return.

COLORADO COMMISSION: *Re Oliver Power Co. (App. Nos. 1664, 1665, Decision No. 3008.)* An application for a certificate of convenience and necessity to exercise privileges granted by the town of Paonia, and the construction and operation of an electrical utility system was granted, subject to certain territorial restrictions.

COLORADO COMMISSION: *Re Pikes Peak Air Commerce, Inc. (App. Nos. 1654, 1661, Decision No. 3033.)* A proceeding involving rival applications of the Pikes Peak Air Commerce, Inc. and the United States Airways, Inc. for a certificate of convenience and necessity between Denver and Durango, and between Alamosa and Grand Junction was decided in favor of the Pikes Peak Company, in view of its superior connection with California, Oklahoma, and other southwestern states.

COLORADO COMMISSION: *Romey v. Meeker Light & Water Co. (Case No. 526, Decision No. 3024.)* A firm of copartners doing business as an electrical utility was found guilty of wrongfully exacting a deposit of $25 from a customer, and disconnecting service without forty-eight hours' notice in violation of a commission order. The deposit was ordered to be returned together with interest at 8 per cent from the date it was paid.

COLORADO COMMISSION: *Re Southern Kansas Stage Lines Co., Inc. (App. No. 1389, Decision No. 3006.)* Petitions of protesting carriers for a rehearing of a commission order granting the applicant a certificate to operate in interstate commerce were denied. The protest was based solely upon the lack of convenience and necessity for the proposed service. The commission said that it did not have authority under the law to deny certificates for such a reason.

MAINE COMMISSION: *Re Cumberland County Power & Light Co. (U-1167.)* By reason of the acquisition by the Southern Counties Power & Light Company of the "Pepperell properties," including the Clark Power Company, the commission authorized the former to issue securities to the amount of $2,318,000, which amount was determined by deducting from the total purchase price of the Pepperell property ($2,400,000), the value of nonutility property and property situated in New Hampshire.

MISSOURI COMMISSION: *Re Hannibal Transportation Co. (Case No. 7078.)* In denying an application for permission to operate as a motor carrier between Palmyra and the Missouri-Iowa state line, the commission expressly condemned the admission of hearsay testimony as evidence of convenience and necessity in a commission proceeding. *(See Utilities and the Public, page 570.)*

MISSOURI COMMISSION: *Re Western Telephone Corp. of Mo. (Case No. 7035.)* Notwithstanding a petition of the leading business men and letters from the mayor and civic organizations of Clarence, Missouri, the commission denied an application of a telephone company for permission to file a schedule of increased rates that would take care of a change from the present magneto grounded circuit service to common battery metallic service. The commission felt that, in view of the present economic depression prevailing throughout the country and in the vicinity of Clarence particularly, aggravated by the recent drought, public policy strongly suggested a postponement of the proposed improvement.

NEBRASKA COMMISSION: *Re Northwestern Bell Telephone Co. (App. No. 8543.)* The commission permitted and approved of a change in the telephone company's method of accounting affecting 50 exchanges in the state of Nebraska. The new system is known as the "rotation billing" plan. *(See Utilities and the Public, page 570.)*

NEW HAMPSHIRE COMMISSION: *Re Rules and Regulations Covering Aviation. (I-2494, Order No. 2235.)* In addition to the regulations of the United States Department of Commerce covering commercial air transportation, the New Hampshire commission adopted a number of rules and regulations for commercial aircraft in that state. Pilots must be licensed or registered with the commission; aircraft must be approved, as well as airports. Rules are prescribed for safety, reporting of accidents, for flying, and for grounding.

NEW JERSEY COMMISSION: *Re American Radio News Corp.* Application for authority to operate a broadcasting station on a frequency of 95 and 99 kilocycles, which would approximate 3,000 meters, was granted. This station is not an ordinary broadcasting sta-

tion because its impulses can be picked only by special automatic code receiving machines. These are being used almost exclusively by newspaper publishing offices.

NEW JERSEY COMMISSION: *Re Atlantic Broadcasting Corp.* This is the first application of a broadcasting company for a certificate of convenience and necessity to construct and operate a radio broadcasting station under New Jersey's brand new law (enacted March 18, 1930) placing such stations under the jurisdiction of the public utility commission. (*See Utilities and the Public, page 570.*)

PENNSYLVANIA COMMISSION: *Walter v. Nokomis Water Co.* (*Complaint Docket No. 7512.*) Proposed increased rates calculated to yield a return in excess of 7 per cent on the fair value of the water company's property, which was fixed for rate-making purposes at $28,500, were ordered by the commission to be modified so as to produce an annual return of not more than 7 per cent. The commission made observations unfavorable to the company regarding the purity of the water supply, and also with regard to its rules and regulations requiring service lines to be installed at the cost of the consumer.

PENNSYLVANIA COMMISSION: *Philadelphia Rapid Transit Co. v. Waer Bus Co., Inc.* (*Complaint Docket No. 7777.*) A bus company operating between Philadelphia, Pennsylvania, and Riegelsville, New Jersey, was ordered, notwithstanding the interstate character of its service, to cease and desist from further operations because of its failure to obtain a certificate covering such route from the state commission.

SOUTH DAKOTA COMMISSION: *Re Central West Public Service Co.* (*F-1326.*) Increased rates calculated to yield a return of approximately 7 per cent on the value of the company's telephone property in Parker, South Dakota, were allowed.

SOUTH DAKOTA COMMISSION: *Re Central West Public Service Co.* (*F-1260, F-1263, F-1264, F-1265, F-1266.*) Increased telephone rates calculated to produce a return of approximately 6.3 per cent on the value of the company's properties at Wakonda, which was fixed at $28,500, were approved. Increased rates calculated to yield a return of 8.8 per cent on the value of properties at Irene, which was fixed at $35,000, were approved. Increased rates calculated to yield a return of 6.58 per cent on the value of properties at Volin, which was fixed at $17,000, were approved. Increased rates calculated to yield a return of 12 per cent on the value of property at Kimball, which was fixed at $12,812.60, were modified to some extent and approved. Increased rates were also allowed on the company's properties at Woonsocket, the value of which was fixed at $26,500.

UNITED STATES CIRCUIT COURT OF APPEALS: *New Jersey Commission v. Elizabeth Water Co.* (*No. 4206.*) Water rates fixed by the New Jersey commission estimated to yield a return of less than 7¼ per cent on the value of the utility's property were held to be confiscatory and were accordingly enjoined. Considerable modification was also made in the commission's finding as to the value of the utility's property. (*See Utilities and the Public, page 570.*)

VERMONT COMMISSION: *Re Public Electric Light Co.* (*No. 1629.*) Upon investigation by the commission revealing the fact that current rates for domestic consumers of Jericho, Underhill, and St. Albans, Vermont, were producing a return of approximately 8.95 per cent on the fair value of the plant used, the utility was ordered to put into effect reduced rates calculated to yield a return somewhat in excess of 7 per cent which was held to be a reasonable rate. The commission also ruled that a contract by which the company agreed to render service to Henry L. Ward of Underhill under a flat rate of $40 a year was illegal and void, being found unjust, discriminatory, and preferential. The company was ordered to abrogate this contract and to collect from Ward the money due it for service according to the established rate for other customers.

WISCONSIN COMMISSION: *Re Madison Railways Co.* (*R-3833.*) Because the railway company, upon obtaining authority from the commission to increase rates on September 11, 1930, violated a condition of the commission's order by failing to sell tickets at the old rate up to midnight September 14th, thereby affording the public an opportunity to stock up, the commission ordered that the company sell tickets at the old rate from September 15th to September 18th; and that sale be limited to quantities of $1 to any one person.

WISCONSIN COMMISSION: *Re Oconto City Water Supply Co.* (*U-3488.*) The commission determined that the just compensation to be paid by the city of Oconto for taking over the property of the water company is $164,000. There was considerable discussion as to the fluctuations in the price of cast iron pipe, and it was said that there are other factors than the law of supply and demand which continue the downward trend in price of this commodity, and that cast iron pipe has not during the past ten years ever lent itself to what the courts designate as a "plateau of prices." The commission said that it was not attempting to fix any price that would recognize only the present downward tendency, but that it was giving due consideration to the present day prices and for that reason it increased somewhat the value found reasonable as of January 1, 1928.

The Utilities and the Public

Hearsay Testimony Excluded from a Missouri Commission Proceeding

SOONER or later all state commissions will be called upon, if they have not already been, to decide whether they will admit hearsay testimony as evidence in their proceedings. It is a difficult decision to make and there is a great deal to be said on both sides.

It is well known, even among lawyers, that the technicalities of the law are often the cause for the miscarriage of justice. Almost any trial lawyer will admit as much. Nevertheless, our foremost jurists continue to believe that these evidentiary restrictions are necessary safeguards for the dispensation of justice, notwithstanding the hardships worked in individual cases.

In certain countries on the European continent, the courts have dispensed in a large measure with the so-called rules of evidence. Witnesses and prisoners are directed to tell all they know, whether from their own observation or as told to them by others. The judges then admonish the jury as to the relative weight to be given original testimony as distinguished from "hearsay evidence," but neither is barred.

In this country, our law courts have inherited stringent rules of evidence from the common law of Mother England. Our commissions, however, being new tribunals without procedural precedent, have been left to shift for themselves. They make their own rules.

It is true, the supreme court of Illinois has held that, while the commission of that state is not a court, the same rules as to the admissibility of evidence as in a court should be observed. It is fairly safe to say, however, that this is contrary to the weight of authority. The prevailing view, as stated by the supreme court of Oklahoma, is that the commission's function is largely one of investigation, and for that reason it should not be hampered, in making inquiry pertaining to rates of a public utility, by those narrow rules which obtain in trials at common law.

Decisions in accord with this ruling have been registered by courts and commissions in Idaho, Pennsylvania, California, Kansas, Virginia, Montana, and Nebraska.

In view of this precedent, a recent decision of the Missouri commission rendered in disposing of an otherwise routine motor certificate case becomes of more than passing interest. In disposing of the application of the Hannibal Transportation Company (Case No. 7078), the commission stated:

> "Witnesses were asked to tell what the people of communities along the route think about the proposed service and they attempted to do so. What the witness himself thought would not be proof of any fact upon which the commission could base an order. No person or body of persons, whose duty it is to pass on evidence submitted in any proceeding, should be requested to consider testimony which undertakes to tell what other people think. The petitions filed in this case are not proof of any fact in issue and the commission cannot consider them as evidence."

Here is unquestionably a case where the testimony was of very doubtful evidentiary value, but it is to be noted that the commission has not announced a hard and fast rule against hearsay evidence. It specifically stated that "the petitions filed in *this case*" were not to be admitted.

It is easy to suppose, however, an involved valuation proceeding, for instance, where an inflexible rule against hearsay testimony might prove more of a hindrance than a help in arriving at the truth. Indeed, it is difficult to imagine how an appraising engineering

concern, whether employed by a utility, a city, or the commission itself, could place upon the witness stand every subordinate engineer upon whose partial observations a valuation was based or qualify every "field note" of such subordinates as "original entries," or otherwise, in order to pass the strict muster of the rules of evidence employed in the law courts.

It has been said that one of the cardinal virtues of commission regulation has been the informality of its procedure. Engineers, utility officers, and other expert witnesses, generally speaking, are not harassed or embarrassed by unnecessary cross-examinations, nor hampered by evidentiary restrictions in telling their story. Such professional men are usually honest regarding facts, however biased their personal judgment or conclusions might be. It should also be remembered that the commissions themselves are given much discretion in weighing the amount of credence that is to be accorded to all evidence which has been admitted in their investigations.

Is the Cut-Rate Taxicab Profitable?

THE District of Columbia commission's inquiry into taxicab service in the capital city continues to bring forth interesting developments. The latest is a report by Richmond E. Keech, the new, young, and active people's counsel for the District. He claims that his investigations have revealed that cut-rate cab drivers earn on an average $5.35 a day, and that cut-rate cab owners, after setting aside funds for all operating expenses, interest, depreciation, and insurance against damage claims, realize a profit of 7 per cent on their investment.

If this is true, certainly the staying power of the cut-rate cab has been grossly underestimated. Countless experts in Washington, in New York, in Providence, and elsewhere have told investigating bodies that the cut-rate cab cannot operate profitably. They have produced devastating statistics proving conclusively that the cut-rate cab operator is doing nothing else but committing financial suicide. Even journals of the street railway companies have been suggesting that the cut raters will probably end up in bankruptcy very shortly.

But if Mr. Keech's estimates are anywhere near accurate, there seems no reason why the cut-rate cab is doomed. After all, even in these days of high living costs, $37.50 is not a bad average weekly wage for employment of the taxicab driver type, even if it does include Sundays. And how many street railway companies in the United States are earning as much as 7 per cent return on their investment over and above operating expenses and other fixed charges?

Possibly Mr. Keech has erred in his estimates, but dire predictions of immediate financial failure of the cut-rate cabs from positive experts were made as early as four years ago and the cut-rate cab is still with us and still continues to cut rates.

In any event, there has been no conclusive evidence as yet forthcoming as to whether or not the cut-rate taxicab is an economic impossibility. Even the exhaustive report on the subject recently rendered by Mayor Walker's New York city investigating commission leaves the point up in the air.

There may be and probably are other reasons for regulating the taxicab—its effect on the interest of the public generally through the undermining, by way of competition, of the security of regular common carriers operating between fixed terminals. It may be that the cut-rate taxicab driver is using up the streets and highways and clogging up vehicular traffic all out of proportion to the tax he pays—all to the ulti-

mate detriment of the other taxpayers.

But to tell a man it is impossible for him to earn a living doing a certain thing when he has been earning his living by doing that very thing for three or four years reminds one of the lawyer who assures his client that he cannot be placed in jail for a certain act while the client listens from behind the bars.

Principles of Rate-Making Valuations Are Defined by a Federal Court in a New Jersey Water Case

THE United States Circuit Court of Appeals is a high court as courts go. It has the second highest rank in the Federal judicial system—second only to the United States Supreme Court, from which an appeal, according to the ancient darky who used to be employed in the Capitol, can be taken only to Heaven. That is why the circuit court of appeals for all practical purposes should be ranked with the highest courts of the several states. That is why a decision of the circuit court of appeals restraining a rate order of the New Jersey commission, involving the Elizabeth Water Company and clearly settling some legal points in valuation that have long been in dispute, merits special attention.

This decision does not announce any one new or startling principle of utility valuation but clearly and decisively puts an end to a number of bothersome little points, that is—as far as a circuit court of appeals *can* put an end to any legal controversy. And so, considered in its entirety, the Elizabeth Water Company Case seems to be a very important decision.

The effect of the decision is to affirm a decree of a Federal district court which issued an order restraining rates ordered by the New Jersey board which were calculated to produce a return of less than 7¼ per cent on the value of the utility's property. The circuit court found such rates confiscatory in violation of the company's constitutional rights.

The first valuation point, however, had to do with a reproduction cost estimate of hypothetical pavement cutting. There has long been some dispute as to whether a utility having laid its system underground during a period when the ground was unpaved should be allowed, in estimating the hypothetical reproduction cost of its plant, to include the expense that would be incurred in cutting and replacing such pavement if the plant were built today. The circuit court definitely excluded such an allowance.

Another point is the value of water rights on lands owned by a utility apart from the physical value of such lands as part of its system. Whether such a value should be allowed, the court ruled, depends on the abundance and depth of the water in the particular locality. If water everywhere is only a few feet below the surface, no value should be allowed outside of the present cost of sinking shallow wells; but if water is rare or very deep, a water supply if found, even by chance, and developed, is a thing of great value. Such value may in such an event be included in the rate base. (Incidentally, the same rule might apply to natural gas companies.)

Another important point concerned the time period from which prices used in estimating reproduction cost values should be taken. Where it would take more than two years to reproduce a utility plant, the court held that the reproduction cost should be computed in accordance with average prices covering such a period and not according to a "spot price" at the time of the hearing.

The next point concerned a question of local fact which might, however, be

of interest to other utilities and commissions. The company had a 20-year-old reservoir which it claimed could be used for "balancing" overflowing mains to offset excessive pressure. Although it had been dry for three years, the circuit court disagreed with the New Jersey commission, and allowed its value to be included in the rate base.

A final valuation point involved the effect of a Federal court's review of a utility's rate base. The court held that its finding of rate-making value, under such circumstances, was fixed as of the date of the original inquiry before the state commission, and not as of the date of the entry of the Federal decree, which was two years later. Incidentally, it was observed that a Federal court, in reviewing rates and values fixed by a state commission, will exercise its own independent judgment.

Radio Broadcasting Certificates Granted by the New Jersey Commission

COMMISSION regulation of radio broadcasting has at last assumed definite form. Last spring (March, 1930) the New Jersey legislature passed a law declaring radio broadcasting and transmitting to be a public utility service, at least to the extent of warranting control by the state, through its commission, of such operations in a manner best suited to the needs of the people.

Accordingly, the law provided that no radio broadcasting station or transmitter should be constructed or operated in New Jersey without a certificate being obtained from the commission of that state. The statutory test for such convenience and necessity required the commission to see that proposed operations would not cause undue or unreasonable "blanketing" or "interference" with general radio receiving conditions within the state and to impose such conditions on the certificates granted as seemed most likely to insure or promote good radio receiving conditions.

Pursuant to this statute, the commission, on September 17th, handed down two decisions on applications for radio broadcasting certificates.

One of the applications—that of the American Radio News Corporation—was of a specialized nature. A proposed service on a frequency of 95 to 99 kilocycles, which could be picked up only by special automatic code receiving machine used in newspaper offices, was approved.

Another application was by the Atlantic Broadcasting Corporation, which has been operating station WABC on a frequency of 860 kilocycles. The proposed station will use the 860-kilocycle channel but will be situated in New Jersey.

The commission's opinion contained a definition of the statutory terms "blanketing" and "interference." The former was said to be the reception by radio receivers, in a locality dominated by a strong station, of that station to the exclusion entirely of another station. The latter term was said to be the reception of a stronger or more high-powered station with the ability to hear another station at the same time.

The commission decided that the only way of determining whether or not the proposed operations would cause unlawful blanketing or interference would be by actual trial. A certificate was issued upon condition that operations should be deemed experimental until the fact that they will not interfere with or blanket other stations is established to the satisfaction of the commission.

Public Utilities Reports

COMPRISING THE DECISIONS, ORDERS, AND RECOMMENDATIONS OF COURTS AND COMMISSIONS

VOLUME 1930E NUMBER 2

Points of Special Interest

Titles and Index

TITLES

INDEX

Davey men are almost never denied permission o trim trees for line clearance

Yes, indeed, I am willing to give permission to Davey Tree Surgeons. I have been afraid to entrust the safety of my trees to others, but I have faith in Davey men

WITHOUT attempting to review the past history of line clearing activities, it is only necessary to suggest the obvious fact that there are many, many home owners who are very reluctant, or entirely unwilling, to give permission for the trimming of their trees to ordinary workmen or unknown tree men.

Whether they are justified in this position need not be argued.

The fact remains that many refusals of permission for line clearance make it difficult to maintain good wire service. Sometimes these refusals impede, or make impossible, some very important improvement.

This situation represents an existing problem that, in many cases, is more or less serious. But it is a problem that can be solved harmoniously by Davey Tree Surgeons in nearly all cases. Davey men have almost never refused permission to trim the trees for line clearance.

JOHN DAVEY
1846-1923
Father of Tree Surgery
Reg. U. S. Pat. Office

This is the result of public confidence in the Davey Organization; a confidence that is based upon a half century of public service and a quarter of a century of national advertising.

Think of it! Nearly two and a half million trees trimmed for line clearance and almost never a refusal of permission! What an asset this is to you from the standpoint of good service! And what an enormous asset in the form of definite goodwill and active friendliness among the tree owners along your lines!

The cost of Davey service is remarkably economical, but the supplemental benefits are highly important—without any added cost.

Write or wire Kent, Ohio, for full information. Branches and representatives in all principal cities.

THE DAVEY TREE EXPERT CO., Inc.,
521 City Bank Bldg., Kent, Ohio.

DAVEY TREE SURGEONS

MARTIN L. DAVEY, *President and General Manager*

HENRY C. SPURR, *Editor*
KENDALL BANNING, *Editorial Director*
ELLSWORTH NICHOLS, *Associate Editor*
FRANCIS X. WELCH, *Contributing Editor*
M. M. STOUT, *Assistant Editor*

Public Utilities Fortnightly

VOLUME VI — *November 13, 1930* — NUMBER 10

Contents of previous issues of PUBLIC UTILITIES FORTNIGHTLY *can be found by consulting the "Industrial Arts Index" in your library.*

PUBLIC UTILITIES REPORTS, INC., PUBLISHERS

PUBLIC UTILITIES FORTNIGHTLY, a magazine dealing with the problems of utility regulation and allied topics, including the decisions of the state commissions and courts, now issued in conjunction with Public Utilities Reports, Annotated; endorsed by the National Associations of the Utility Industry and by the National Association of Railroad and Utilities Commissioners, and supported in part by those conducting public utility service, manufacturers, bankers, accountants and other users of the publication.

PUBLIC UTILITIES FORTNIGHTLY, published every other Thursday, 75 cents a copy; $15.00 a year.

PUBLIC UTILITIES REPORTS, ANNOTATED, 5 bound volumes with Annual Digest, $32.50 a year.

PUBLIC UTILITIES REPORTS, ANNOTATED, WITH PUBLIC UTILITIES FORTNIGHTLY, combined price $42.50 a year. Publication office, 615 Duffy-Powers Building, Rochester, N. Y.; editorial and executive offices, Munsey Building, Washington, D. C. Entered as second-class matter April 29, 1915, at the Post Office at Rochester, N. Y., under the Act of March 3, 1879. Printed in U. S. A.

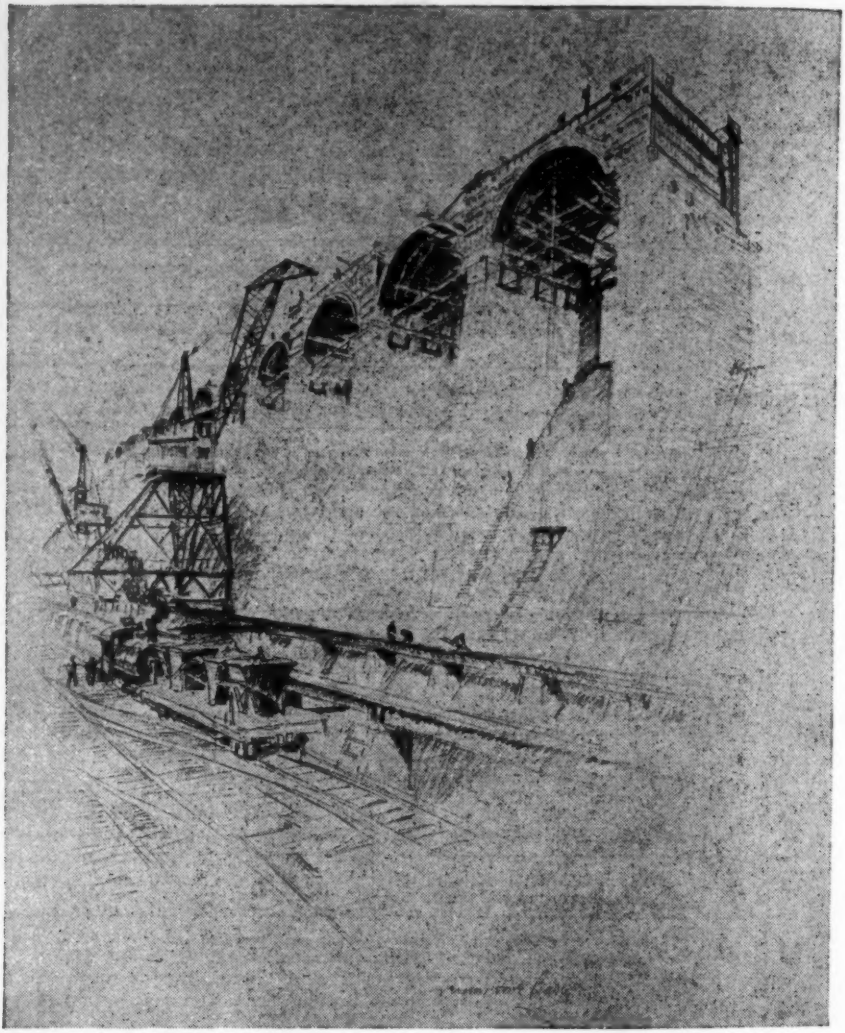
NOVEMBER

Reminders of Coming Events — **ALMANACK** — *Notable Events and Anniversaries*

13	T^{h}	JOHN FITZHUGH put into operation his now historic grain mill—then classified by law as a public utility—at Dallas, Missouri, 1830.
14	F	The first telephone exchange in Pennsylvania was placed in the public service in Philadelphia, 1878.
15	S^{a}	A bottle of wine, a dinner, and transportation were offered free to all passengers in the rate war between the rival stage coach lines between Boston and Providence, 1828.
16	S	The gold rush to California—the forerunner of transcontinental transportation systems—began with the departure of vessels from eastern ports, 1848.
17	M	Eight and a half hours were clipped from the speed record by *"The Overland Limited"* train on its maiden trip from Chicago to San Francisco, 1895.
18	T^{u}	Street lamps lighted by gas made their first appearance in London, to the consternation and misgivings of the populace, 1807.
19	W	GEORGE ROGERS CLARK, who blazed the trails in Northwest Territory and opened the way for stage coach and railroad transportation, was born in Virginia, 1752.
20	T^{h}	The first American railroad passenger car which served as the basis for the modern coach, was put into operation on the Portage Railroad in Pennsylvania, 1834.
21	F	ALEXANDER G. BELL, in the course of his laboratory experiments, first noted the sound effect which eventually led to his invention of the telephone, 1874.
22	S^{a}	The U. S. Supreme Court ruled that public utilities were entitled to a 7 per cent return, 1926. The first radio communication company in the U. S. was organized, 1899.
23	S	Stocks in gas companies dropped 20 per cent upon the announcement that THOMAS A. EDISON had invented electric lighting apparatus for the home, 1874.
24	M	The tracks of the Mohawk & Hudson Railroad were provided with a path for the use of horses when "the locomotive boilers would not make sufficient steam"; 1830.
25	T^{u}	*"Yankee Doodle,"* played on a piano in London before a microphone, was picked up on a receiving set on Long Island—the first transatlantic broadcast feature, 1923.
26	W	JOHN STEPHENSON'S first railway car in the United States was put into service between City Hall and 14th Street, New York, 1832.

"When times are good, we might afford to take a chance on radical government. But when we are financially weakened we need the soundest and wisest of men and measures."

—CALVIN COOLIDGE



From a drawing by Vernon Howe Bailey

The Age of Power

Like towers of ancient Babylon loom the massive but uncompleted units of the steel and concrete dam at Muscle Shoals, auguring the coming of a new era of electric energy in the struggle to harness nature and place it at the service of Man.